

This rule was filed as 5 NMAC 7.21.

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 21 WICHE LOAN-FOR-SERVICE PROGRAM

5.7.21.1 ISSUING AGENCY: State of New Mexico Commission on Higher Education, 1068 Cerrillos Road, Santa Fe, New Mexico 87501-4295, (505) 827-7383.
[9/30/97; Recompiled 10/31/01]

5.7.21.2 SCOPE: Provisions of 5 NMAC 7.21 [now 5.7.21 NMAC] apply to the commission on higher education and all eligible student participants.
[9/30/97; Recompiled 10/31/01]

5.7.21.3 STATUTORY AUTHORITY: Section 21-29-1 to 21-29-6, NMSA 1978.
[9/30/97; Recompiled 10/31/01]

5.7.21.4 DURATION: Permanent.
[9/30/97; Recompiled 10/31/01]

5.7.21.5 EFFECTIVE DATE: September 30, 1997 [unless a later date is cited at the end of a section].
[9/30/97; Recompiled 10/31/01]

5.7.21.6 OBJECTIVE: The objective and purpose of 5 NMAC 7.21 [now 5.7.21 NMAC] is to make educational loans available to students wishing to participate in student exchange and enroll at an out-of-state university. The act requires, as a condition of each loan, that the student declare his or her intent to return to New Mexico upon degree completion and practice in their licensed or chosen field.
[9/30/97; Recompiled 10/31/01]

5.7.21.7 DEFINITIONS:

- A. "Commission" means the New Mexico commission on higher education.
 - B. "Eligible institution" means an out-of-state institution participating in WICHE PSEP or an approved an out-of-region contract;
 - C. "Eligible profession" means a professional field not offered at a New Mexico public post-secondary institution; a program available through the WICHE compact; and a program that the WICHE commissioners have chosen to make available for eligible students;
 - D. "Extenuating circumstances" means circumstances not within the control of the student recipient.
 - E. "Loan" means a grant of funds to defray the costs incidental to an eligible profession education, under a contract between the commission and a student, requiring repayment with services or repayment of principal and interest, penalties, and any fees;
 - F. "Program" means the WICHE loan-for-service program;
 - G. "Service" means full-time, on-site practice in an eligible profession; unless otherwise provided for by the WICHE commissioners;
 - H. "Student" means a New Mexico resident who graduates from a New Mexico high school or has resided in New Mexico for three consecutive years immediately preceding application to the program and who attends or is about to attend a graduate or professional program of education through the auspices of the compact for western regional cooperation for higher education; and, has been accepted by an accredited program for one of the eligible professions (Pursuant to NM Constitution, this clause is effective May 20, 1998);
 - I. "WICHE commissioners" means the three individuals designated by the New Mexico governor to be representatives of the state to the WICHE commission; and
 - J. "WICHE PSEP" means the western interstate commission on higher education's professional student exchange program;
- [9/30/97; A, 12/31/98; Recompiled 10/31/01]

5.7.21.8 STUDENT ELIGIBILITY: A scholarship may be awarded to a New Mexico resident who:

- A. is a citizen of the United States or a permanent resident alien and resident of New Mexico;
 - B. is a graduate of a New Mexico high school;
 - C. is enrolled in or accepted by an eligible institution;
 - D. is enrolled, at the time the loan is awarded and disbursed, for at least half-time in a program leading to a eligible profession degree/certification, at an eligible institution; and
 - E. declares his/her intent to practice in an eligible profession for at least one year in New Mexico.
- [9/30/97; Recompiled 10/31/01]

5.7.21.9 SELECTION OF LOAN RECIPIENTS: Selection shall be based on the following considerations and preferences:

- A. the ability, character, and qualifications of each applicant. This is to include a review of the applicants educational transcripts, letters of recommendation and references;
 - B. the demonstrated intent of the applicant to return to the state and practice in their eligible profession;
 - C. the academic ranking as determined by the eligible institution upon admission; and
 - D. the degree being sought by the applicant is deemed necessary to address the workforce needs of the population in New Mexico.
- [9/30/97; Recompiled 10/31/01]

5.7.21.10 ADMINISTRATION: The commission shall be responsible for:

- A. developing program guidelines;
 - B. advertising the program;
 - C. processing applications and presenting a list of eligible candidates to the WICHE commissioners;
 - D. administering loans, including:
 - (1) disbursing funds;
 - (2) keeping records on borrowers and processing of contracts;
 - (3) administering and keeping record on loan repayments;
 - (4) maintaining records of location and time of service of those student loan recipients who have completed their education and are providing service in New Mexico;
 - E. verifying qualifications for forgiveness for service;
 - F. preparing the following information for the program:
 - (1) number of loans granted;
 - (2) names and addresses of borrowers;
 - (3) names of accredited programs attended; and
 - (4) names and locations of practice of those who have completed their education and have become licensed/certified service providers in New Mexico.
- [9/30/97; Recompiled 10/31/01]

5.7.21.11 LOANS: Loans can be made to students to defray expenses incurred in obtaining an eligible profession education under the following conditions and limitations:

- A. the amount of the loan shall not exceed the amount equivalent to the negotiated support fee for the graduate or professional program; and
 - B. upon approval of the loan, a contract shall be drawn between the student and the commission and signed by the student.
- [9/30/97; Recompiled 10/31/01]

5.7.21.12 LOAN REPAYMENT AND FORGIVENESS:

- A. All loans shall be repaid to the state together with interest or forgiven according to the following:
 - (1) If a program loan recipient completes his/her professional education and does not provide service in New Mexico for a period of at least one year, the commission may assess a penalty of up to three times the principal due, plus eighteen percent interest, unless the WICHE commissioners find acceptable extenuating circumstances for why the student cannot serve and comply with the forgiveness provisions outlined in this section.
 - (a) The full penalty shall apply unless the circumstances reflect that the penalty should be reduced on a prorata basis reasonably reached based upon the degree of control which the recipient has over the decision not to serve. The recipient shall have the burden of proof.

(b) If the WICHE commissioners do not find acceptable extenuating circumstances for the student's failure to carry out his/her declared intent to provide service in New Mexico, the commission shall require immediate repayment of the unpaid principal amount of the loan plus accrued interest owed plus the amount of any penalty assessed pursuant to this section

(2) If a program loan recipient fails to complete their eligible profession education, the principal shall come due together with interest immediately upon termination of their education. The commission, in consultation with the student, shall establish terms of repayment, alternative service or cancellation terms. Loans meeting this provision will bear interest rate of seven percent per year.

B. The contract shall further provide that immediately upon completion or termination of the student's eligible profession education, all interest then accrued due shall be capitalized.

C. If the borrower, after completion of their eligible profession education and any period of internship and/or residency, provides service in New Mexico, loan principal and interest may be forgiven according to the following formula:

(1) loan terms of one academic year or less shall require one year of practice in New Mexico. Upon completion of service, one hundred percent of the principal plus accrued interest shall be forgiven;

(2) loan terms of two academic years shall require one year of practice in New Mexico for each academic year of the loan. Upon completion of the first year of service, fifty percent of the principal plus accrued interest shall be forgiven. Upon completion of the second year of service, the remainder of the principal plus accrued interest shall be forgiven; and,

(3) for loan terms of three academic years or more, forty percent of the principal plus accrued interest shall be forgiven upon completion of the first year of service in New Mexico, thirty percent of the principal plus accrued interest shall be forgiven upon completion of the second year of service and the remainder of the principal plus accrued interest shall be forgiven upon completion of the third year of service.

D. Recipients must serve a complete year of service in order to receive credit for that year. The minimum credit for a year of service shall be established by the WICHE commissioners.

E. Subject to applicable statutory limitations, the WICHE commissioners may extend or modify the foregoing repayment periods for good cause.

F. In the event it becomes necessary, the WICHE commissioners may suspend loan payments using the following forbearance provisions:

(1) If the borrower is willing, but financially unable to make payments under the repayment schedule, the borrower may request forbearance to allow for any of the following:

(a) a short period during which no payments are made, interest would continue to accrue;

(b) an extension of time for making payments, interest would continue to accrue; or

(c) a period during which the borrower makes smaller payments than were originally scheduled, interest would continue to accrue on the unpaid principal.

(2) Forbearance following completion of program, internship, or residency will not be granted for periods extending beyond six months. The granting of a subsequent forbearance must be approved by the designated staff representative of the commission.

(3) The borrower must submit a written request accompanied by a financial statement and a consent-waiver for authorization for current employment and address information concerning the borrower and other information as requested.

(4) Deferral of repayment obligation may be as follows, at the determination by the designated staff representative of the commission:

(a) the borrower is serving up to a maximum of three years as an active duty member of the Armed Forces of the United States;

(b) the borrower is temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit of a qualified physician;

(c) the borrower is seeking but unable to find full-time employment for a single period not to exceed twelve months;

(d) the borrower is unable to secure employment for a period not to exceed twelve months while caring for a disabled spouse;

(e) the borrower is unable to satisfy the terms of the repayment schedule while seeking but unable to find full-time employment in an eligible health profession, in a designated shortage area, for a single period not to exceed twenty-seven months; or

(f) other extenuating circumstances as provided for under the American Family Leave Act.

G. Loans may be prepaid at any time, subject to the penalty provision set forth in this section. Payment on a loan not in repayment may be made in any amount. Payments on a matured promissory note shall be in the amounts of and be applied on the principal installments due on such note in the inverse order of the maturities of such installments, unless otherwise agreed.

H. Authorized charges and fees:

(1) Borrower may be charged a late charge in the amount of five percent of the installment payment or five dollars (\$5.00), whichever is less, on any payment made later than ten days after it is due.

(2) Attorney's fees, other charges, and costs: Borrower shall agree to pay all reasonable attorney's fees, and other costs and charges necessary for the collection of any loan amount not paid when due.

I. Borrower has the responsibility to notify the commission in advance of any change of address and of any action which necessitates reconsideration of a promissory note (i.e. the failure to serve in a designated shortage area) the termination of service in a designated shortage area, or his/her ceasing to be enrolled in an eligible institution in an eligible health profession program. Borrower's failure to notify the commission and to execute a promissory note on request shall cause the full amount of principal and accumulated interest to become due immediately.

[9/30/97; Recompiled 10/31/01]

5.7.21.13 CONTRACT: A contract shall be drawn between each student receiving a loan and the commission on behalf of the state of New Mexico. The contract shall:

A. provide for the payment by the commission of a specified sum as determined in Section 12 [now 5.7.21.12 NMAC];

B. state that the borrower shall return to New Mexico, upon degree completion, to begin service;

C. state that immediately upon completion or termination of the student's eligible profession education, all interest then accrued shall be capitalized;

D. state the conditions of repayment or forgiveness as detailed in Section 12 [now 5.7.21.12 NMAC];

E. state that the loan shall bear interest at the designated rate per annum from the date of disbursement until paid, make provision for conversion to a payout note as shown in Section 12 [now 5.7.21.12 NMAC], and state that interest will be charged on the unpaid balance of the principal only;

F. state the legal responsibilities of the borrower and that delinquent loans shall be reviewed for appropriate action, which may include referral to the office of the attorney general, if deemed necessary;

G. state that the commission may cancel a contract with a student for reasonable cause deemed sufficient by the WICHE commissioners;

H. state that in the event the borrower fails to make any payment when due, the entire indebtedness including interest due and accrued thereon shall, at the option of the commission, become immediately due and payable; and

I. state that jurisdiction and venue shall be proper in Bernalillo or Santa Fe county, New Mexico for purposes of any suit to enforce the contract.

[9/30/97; Recompiled 10/31/01]

5.7.21.14 REPORTS: The commission shall submit a report to the governor and the legislature prior to each regular legislative session. The report shall describe the activities during the previous years, including the statistics.

[9/30/97; Recompiled 10/31/01]

HISTORY OF 5.7.21 NMAC: [RESERVED]