

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 5 POST-SECONDARY EDUCATIONAL PROGRAMS
PART 51 DEVELOPMENT EMPLOYMENT FUNDING FOR FILM AND MULTIMEDIA PRODUCTION COMPANIES

5.5.51.1 ISSUING AGENCY: New Mexico Economic Development Department
[5.5.51.1 NMAC - N, 6-16-2008]

5.5.51.2 SCOPE: Film and multimedia production companies and New Mexico residents in film and multimedia crew professions.
[5.5.51.2 NMAC - N, 6-16-2008]

5.5.51.3 STATUTORY AUTHORITY: Section 21-19-7.1 NMSA 1978, established in 2003, directs the industrial training board, also referred to as the job training incentive program (JTIP) board, to consult with the New Mexico film division of the economic development department to create and adopt rules for development funding for film and multimedia production companies. The program is administered by the New Mexico film division of the economic development department and the training reimbursement of fifty percent (50%) of salaries (wages) of qualified participants shall be made by the New Mexico film division without further action or approval of the industrial training board.
[5.5.51.3 NMAC - N, 6-16-2008]

5.5.51.4 DURATION: Permanent.
[5.5.51.4 NMAC - N, 6-16-2008]

5.5.51.5 EFFECTIVE DATE: June 16, 2008
[5.5.51.5 NMAC - N, 6-16-2008]

5.5.51.6 OBJECTIVE: The object of this rule is to establish standards for an on-the-job development training program for film and multimedia production companies and New Mexican crew members. This program entitled the film crew advancement program (FCAP) is one program of the job training incentive program for film and multimedia production companies. It is intended to assist the development of New Mexico's economy by providing reimbursement funds to film and multimedia production companies for the training of New Mexico residents working primarily in below-the-line job positions for the preparation of continual employment in the industry. FCAP also serves as an incentive for production companies to create job opportunities for New Mexican film and television crew professionals. To the extent possible, training will be customized to meet the particular production's needs, provide New Mexican residents with improved economic status through employment, and provide measurable growth to economic base of New Mexico.
[5.5.51.6 NMAC - N, 6-16-2008]

5.5.51.7 DEFINITIONS: For use in this part, the following definitions apply.

A. "Above-the-line" is a film and television industry term derived from where the money is budgeted for creative talent, writers, directors and producers. This term means job positions that are associated with the creative or financial control of a film or multimedia project, not the technical aspects.

B. "Below-the-line" is a film and television industry term derived from where the money is budgeted for technical crew that shall work on a film or multimedia project as well as for costs related to the studio, equipment, travel, and location. In regards to job positions, this term means technical crew working in temporary positions and these individuals do not have creative or financial control of the project nor receive residuals.

C. "Company" means a temporary film or multimedia production company that was created to produce a film or multimedia project and who is the contractor for the FCAP.

D. "Craft" means the specialized area or department in which a film technician works.

E. "Crew" means the employees hired by a company to complete a film or multimedia project.

F. "Deal memo" means the film industry contract that defines the exact terms of a crew members employment including but not limited to position title and pay rate.

G. "FCAP" means film crew advancement program.

H. “Film or television credit” in this program means work on a film or television production for more than one week which was **not** a student film, internship, unpaid position, documentary, commercial, nor on a project where the budget was under one million dollars and the company did not participate in this program.

I. “Film technician” means a crew member working in a below-the-line job position who often is a member of an international alliance of theater and stage employee (IATSE) film union or guild.

J. “General safety certified” means a crew member has completed a class or course that meets OSHA standards for general safety associated with working on a film and multimedia project.

K. “JTIP” means job training incentive program.

L. “Non-union” means the job position is not in the contractual jurisdiction of a film union or film guild.

M. “Mentor” means the go-to person for questions or the supervisor of a program participant with a lower skill set or fewer film credits than the mentor in relation to the job position in which that participant was hired.

N. “NM” means New Mexican.

O. “Open hours” means a trainee that qualified for FCAP during a production did not use all 1040 hours available. Hours that remain are considered “open” and may be used for that job position on another production upon qualification.

P. “Payroll report” means the report generated from a payroll company hired by the production company to act as the crew’s payment agent for the film and multimedia project.

Q. “Principal photography” means the cameras have started filming and the majority of preparation for a film and multimedia project has been completed; call sheets are now issued to crew members and production reports are completed daily.

R. “Production” means the film or multimedia project preparation, principal photography and set break down periods while creating a film or television project.

S. “Resident” means an individual who is domiciled in New Mexico. This domicile is the individual’s permanent home; it is a place to which the individual intends to return after any temporary absence. An individual shall have only one domicile. A change in domicile is established only by establishing a physical presence in a new location with intent to abandon the old domicile and make a home in the new location permanently or indefinitely.

T. “SAG” means screen actors’ guild.

U. “Salaries” means wages or the hourly pay rate for hours physically worked by trainee during a production.

V. “Trainee” means the crew member that shall be learning a new skill set or graduating to a higher job classification through the FCAP and is synonymous with the terms program participant or applicant.

W. “Wages” means the hourly pay rate for hours physically worked by trainee during a production. It does not include film payments to trainees such as kit rental, holiday pay, travel time, mileage reimbursements, or any payment to employee due to penalties incurred by company during production of the project. Applicable gross shall include SAG stunt adjustment wages up to \$500 per each trainee per production.

[5.5.51.7 NMAC - N, 6-16-2008]

5.5.51.8 PROGRAM JOB POSITIONS:

A. Each trainee qualifies for a maximum of 1040 hours. As the trainee works for a specific production company, the hours shall be deducted accordingly. Any unused hours may be applied to future on-the-job training work opportunities in the specified job position until the 1040 hours are exhausted. Unused training hours in a lower level position are forfeited once a trainee moves to a higher level within that skill set and that department.

B. The following are the standard industry job positions available for qualifying FCAP participants and the recommended job position of the mentor as listed in the New Mexico film division FCAP job titles list:

- (1) New Mexican (NM) construction foreman mentored by NM construction coordinator;
- (2) NM construction gangboss mentored by NM construction coordinator or foreman;
- (3) NM construction tool-person mentored by NM construction coordinator or foreman;
- (4) NM scenic foreperson mentored by NM head painter or NM key scenic artist;
- (5) NM scenic artist mentored by NM head painter or NM key scenic artist;
- (6) NM paint gangboss mentored by NM head painter or NM key scenic artist or NM scenic foreperson;
- (7) NM greens foreman or first greens person mentored by NM head or key greens;
- (8) NM art director mentored by NM production designer;

- (9) NM set decorator mentored by NM production designer or NM art director with set decorating film or television credits;
- (10) NM lead person mentored by NM set decorator or NM production designer with set decorating film or television credits or NM art director with set decorating film or television credits;
- (11) NM on-set dresser mentored by NM lead person or NM set decorator;
- (12) NM set dresser mentored by NM lead person or NM set decorator;
- (13) NM shopper buyer mentored by NM lead person or NM set decorator;
- (14) NM props master mentored by NM production designer or NM art director with prop master film or television credits;
- (15) NM assistant props master mentored by NM props master;
- (16) NM certified armorer mentored by NM special effects coordinator with or NM special effects foreman with or props master with armorer film or television credits;
- (17) NM special effects foreman mentored by NM special effects coordinator;
- (18) NM best boy electric or chief lighting technician mentored by NM gaffer;
- (19) NM rigging gaffer mentored by NM gaffer or NM best boy electric with rigging gaffer credits;
- (20) NM best boy rigging mentored by NM rigging gaffer or NM gaffer with or NM best boy electric with rigging gaffer credits;
- (21) NM best boy grip mentored by NM key grip;
- (22) NM dolly grip mentored by NM key grip or NM camera operator;
- (23) NM key rigging grip mentored by NM key grip or best boy grip with key rigging grip film or television credits;
- (24) NM best boy rigging grip mentored by NM key rigging grip;
- (25) NM boom operator mentored by NM sound mixer;
- (26) NM cable person or utility sound mentored by NM sound mixer;
- (27) NM video assist mentored by NM director of photography with or sound mixer with video assist film or television credits;
- (28) NM best boy craft service or assistant craft service mentored by NM key craft service;
- (29) NM key hair mentored by NM department head of hair and make-up;
- (30) NM assistant hair mentored by NM key hair;
- (31) NM key make-up mentored by NM department head of hair and make-up;
- (32) NM assistant make-up mentored by NM key make-up;
- (33) NM wardrobe supervisor mentored by NM costume designer;
- (34) NM key set costumer mentored by NM wardrobe supervisor of NM costume designer;
- (35) NM key costumer mentored by NM wardrobe supervisor of NM costume designer;
- (36) NM costumer or set costumer mentored by NM key costumer or NM key set costumer;
- (37) NM production office coordinator mentored by NM unit production manager or NM line producer;
- (38) NM assistant production office coordinator mentored by NM production office coordinator;
- (39) NM production secretary or key office production assistant mentored by NM production office coordinator or NM assistant office coordinator;
- (40) NM travel coordinator mentored by NM production office coordinator or NM assistant office coordinator;
- (41) NM head production accountant mentored by NM unit production manager or NM line producer;
- (42) NM first assistant production accountant mentored by NM head production accountant;
- (43) NM second assistant production accountant mentored by NM head production accountant or NM first production accountant;
- (44) NM payroll accountant mentored by NM head production accountant;
- (45) NM accounting clerk mentored by NM first production accountant;
- (46) NM assistant locations manager mentored by NM locations manager;
- (47) NM locations production assistant mentored by NM locations manager or NM assistant locations manager;
- (48) NM transportation coordinator mentored by NM unit production manager or NM line producer;
- (49) NM transportation captain mentored by NM transportation coordinator;
- (50) NM casting director mentored by NM director;
- (51) NM casting associate or casting assistant mentored by NM casting director;

- (52) NM extras casting director mentored by NM casting director;
- (53) NM extras casting associate or extras casting assistant mentored by NM extras casting director;
- (54) NM key set production assistant mentored by NM first or second assistant director;
- (55) NM camera operator mentored by NM director of photography;
- (56) NM first assistant camera (any unit) mentored by NM camera operator or NM director of photography;
- (57) NM second assistant camera (any unit) mentored by NM first assistant camera or NM camera operator;
- (58) NM second unit script supervisor mentored by NM first unit script supervisor;
- (59) NM (senior) editor mentored by NM director;
- (60) NM assistant editor mentored by NM (senior) editor;
- (61) NM music supervisor mentored by NM editor;
- (62) NM assistant music supervisor mentored by NM music supervisor;
- (63) NM stunt person mentored by NM stunt coordinator or NM stunt person with advanced stunt credits.

C. Qualifying trainees shall only work one position during the production at a given time and the responsibilities for the qualifying position meet the industry standards for that position; and

D. Trainee's pay rate shall be consistent with trainee's job position per crew member's deal memo and per union contractual agreements where applicable. Film technician trainee's pay rate shall be higher than the positions in the lower tier of positions under trainee or per union contractual agreement where applicable.

E. Trainee positions that are under the jurisdiction of a film union or guild shall supply copy of their membership card. If they do not have a copy of their card, verification shall be requested by an officer of that union or guild of their membership status for the training position.

F. No more than two film technician trainees and non-union trainees shall qualify per production department on a given production and these trainees shall not hold the same job position and job title. Exceptions may be made with approval by the New Mexico film division prior to the commencement of principal photography when, as an example, a production department has more than ten crew members.

G. Film technician trainees shall work at least 80 hours for a company in their hired position in order to qualify. (This does not apply to stunt persons.)

H. Film technician trainee may qualify for an additional 1040 hours if the training received through this program is used to progress from their current job to a higher job classification and shall forfeit any remaining hours in the former position within the department.

I. Trainee may qualify for an additional 1040 hours to move laterally into a new skill set and the individual meets program qualifications.

J. Any requests for additional crew job positions or different mentors to be permitted in program shall be submitted in writing to the New Mexico film division for consideration prior to the seventh day of the crew member's employment or the start of principal photography whichever date comes first. Emails are accepted for a written request. (Above-the-line job positions and stunt coordinators shall not qualify.)

[5.5.51.8 NMAC - N, 6-16-2008]

5.5.51.9 TRAINEE ELIGIBILITY AND QUALIFICATIONS:

A. A crew member that participates in the program shall meet qualifications to be certified as a trainee in the development training program referred to as the FCAP:

- (1) trainee applicants shall be a New Mexico resident; and
- (2) the participating crew member shall enter into a formal agreement with the production company and the New Mexico film division, acknowledging that they are an on-the-job trainee being supervised by a qualified mentor as accepted by the New Mexico film division; and
- (3) trainee applicants shall raise their crew position to a higher classification or be adding a completely new skill set; and
- (4) trainee applicant shall have previous experience in the department in which an advanced position is held; and
- (5) all training applicants shall not have a film or television credit in a higher position in that department to qualify for 1040 training hours for that position; and
- (6) film technicians and non-union or non-guild crew members applying to be a trainee, shall have a maximum one previous film or television credit in the hired position as defined by this program on a contracted film or television project; and

(7) if only one additional contracted film or television credit as defined by this program is obtained after opening hours for the hired position, and the trainee did not participate in the program during the production on which the film or television credit was earned, and the trainee still does not have a higher film or television credit in the department in which he or she was hired, then the trainee shall participate in the program on the condition that 300 hours are subtracted from the current number of available open hours in the program; and

(8) if a crew member has a previous film or television credit(s) that is more than five years old in the hired position and they do not have a film or television credit in a higher position within that department, they may apply for FCAP; and

(9) a trainee shall not be a mentor simultaneously on a production; and

B. If the resume of a trainee or mentor is not available, the union or guild with the jurisdiction of a position shall be contacted by the New Mexico film division to verify participant's qualifications for said job position.

C. Crew members are recommended to be general safety certified for film union or guild contracted positions.

D. Training applicants shall be certified as a film and multimedia trainee by the New Mexico film division.

[5.5.51.9 NMAC - N, 6-16-2008]

5.5.51.10 MENTOR ELIGIBILITY AND QUALIFICATIONS:

A. Mentors of trainees shall be a New Mexico resident.

B. Film technician mentors shall not train more than two film technician trainees or non-union trainees during a production. An exception may be made with approval from the New Mexico film division prior to the commencement of principal photography.

C. A mentor shall not be a trainee simultaneously during a production.

D. Mentor shall have more than one film or television credit as defined by this program in the job position of the trainees that they supervise for this program.

E. Mentor shall work in the same or directly related department with the trainees that they supervise for this program.

F. Mentors shall be certified as a film and multimedia mentor by the New Mexico film division.

[5.5.51.10 NMAC - N, 6-16-2008]

5.5.51.11 COMPANY ELIGIBILITY AND ADMINISTRATIVE REQUIREMENTS:

A. All film production and multimedia companies qualify provided they are willing to hire those individuals that meet the trainee and mentor eligibility and qualifications and are willing to comply with the following requirements:

(1) the company shall submit completed request form for FCAP paperwork entitled JTIP for film & multimedia application part one for FCAP available online at www.nmfilm.com or company may call 505-476-5600; and

(2) the company shall enter into a contract as outlined by the New Mexico economic development department; the term of the contract shall be based on a time period which shall allow the contractor (company) to complete its obligation to hire and provide on-the-job training opportunities for the qualified individuals and complete paperwork involved; and

(3) the company shall have a local office where claims and paperwork shall be processed or a designee shall be available to conduct the appropriate paperwork; and

(4) the company entering into a contractual agreement with economic development department shall return the program contractual agreement and program application to the New Mexico film division prior to the start of principal photography in New Mexico; and

(5) the approval of this contractual agreement from the New Mexico film division and the chairperson of the job training incentive program (JTIP) board shall grant funding to the contractor for the purpose of conducting this training; and

(6) all completed trainee applications shall be faxed or delivered to the New Mexico film division by the last day of principal photography in New Mexico for the trainee to be considered for this program; and

(7) each project is subject to compliance reviews throughout the term of the contract; the compliance review shall consist of program and fiscal surveys; and

(8) company shall submit time records and reimbursement invoices as established by the economic development division to the New Mexico economic development department, which is the payment agent.

B. The participating company shall submit forms and reports as established by the New Mexico film division of the New Mexico economic development department:

- (1) JTIP for film & multimedia application part one for FCAP; and
- (2) department of finance and administration (DFA) tax information form; and
- (3) JTIP for film & multimedia application part two for FCAP; and
- (4) two originally signed JTIP for film & multimedia agreement for FCAP; and
- (5) FCAP participants applications; and
- (6) state of New Mexico declaration of residency forms; and
- (7) copies of identification per the state of New Mexico declaration of residency form; and
- (8) the production's final crew list; and
- (9) a minimum of one call sheet or production report from principal photography; and
- (10) payroll reports for each qualified trainee that verify hours worked and all rates per hours; and
- (11) notarized invoice or claim which includes:
 - (a) company name and address per tax information form; and
 - (b) trainees' last names, then first names and hired positions; and
 - (c) mentors' last names, then first names and hired positions; and
 - (d) trainees' work dates; and
 - (e) number of hours worked by each trainee; and
 - (f) applicable gross wages per trainee; and
 - (g) fifty percent (50%) of applicable gross wages per trainee; and
 - (h) audit fee if applicable; and
 - (i) total reimbursement requested; and
 - (j) company official original signature; date of signature; and notarized signature.

C. All paperwork and forms shall be submitted to the development training program administrator of the New Mexico film division of the economic development department at 418 Montezuma Avenue, Santa Fe, New Mexico, 87501, 505-476-5600.

D. The company shall make arrangements to have a final audit at the end of the contract that may be facilitated by and completed at the New Mexico film division. The audit shall be performed by an independent accounting firm registered with the New Mexico regulation and licensing department, board of accountancy in which case the cost of the audit is added to the contract and funded by the program; or the audit shall be performed by a representative of the New Mexico film division or by an accountant contracted by the New Mexico film division for companies had no more than ten qualifying trainees participating in the FCAP.

E. Companies that fail to comply with all established operating requirements and closeout procedures are not eligible for funding and may not be eligible to apply for future participation.

[5.5.51.11 NMAC - N, 6-16-2008]

5.5.51.12 REIMBURSEMENT OF TRAINING COSTS:

A. Reimbursement shall be made to the participating company in accordance with the terms of JTIP for film & multimedia agreement for FCAP.

B. Failure to fully and accurately complete administrative requirements may require sending the invoice back to company for correction and this process shall delay reimbursement payment.

C. The invoice or claim for reimbursement may be submitted during the contract period, when trainees complete the number of contracted hours.

D. Trainee wages shall be reimbursed upon completion of the training project (not to exceed 1040 hours) and the conclusion of the production in New Mexico.

E. Reimbursement from the state shall be based on the negotiated contractual agreement that includes a wage range outlined in JTIP for film & multimedia application part two for FCAP to meet any wage adjustments during the training period.

F. Reimbursements shall be based upon the number of trainees who have qualified for the training program.

G. Reimbursement shall not exceed fifty percent (50%) of the trainees' rates multiplied by the hours trained. SAG stunt adjustment wages for qualifying stunt persons may not exceed fifty percent (50%) of a maximum of \$500 paid to each trainee per production.

H. Training costs shall be reimbursed to the company based on the number of qualified employees, their wages from hours physically worked, and the estimated production time as written in the contract.

I. The contract amount established in the contract shall remain the same for the length of the agreement.

J. Trainee wages shall be reimbursed upon completion of training on the production which shall not exceed 1040 hours per trainee at the conclusion of production in New Mexico and when company qualifications and requirements have been met.

[5.5.51.12 NMAC - N, 6-16-2008]

5.5.51.13 OTHER PROGRAM INFORMATION:

A. The film crew advancement program (FCAP) of JTIP for film and multimedia was created by the New Mexico film division of the economic development department of state of New Mexico.

B. Public or private entities outside the state of New Mexico shall contact the New Mexico film division of the New Mexico economic development department at 505-476-5600 for consideration to obtain permission to use any part of this program content.

[5.5.51.13 NMAC - N, 6-16-2008]

HISTORY OF 5.51.51 NMAC: [RESERVED]