



Date: August 23, 2019

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Notice of Proposed Rulemaking (NPRM): 5.7.35 NMAC, Grow Your Own Teachers Scholarship Program

### Proposed Rule Abstract

1. **Agency:** Higher Education Department
2. **Rule Citation:** 5.7.35 NMAC, Grow Your Own Teachers Scholarship Program
3. **Rulemaking Action:** New Rule
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Volume 30, Issue 12, June 25, 2019
5. **Effective Date:** August 13, 2019
6. **Citation to Specific Legal Authority:** Section 9-25-1 et. seq. NMSA 1978 and Laws 2019, Chapter 230 (House Bill 20)
7. **Short Explanation of the Rule's Purpose:** To provide guidelines in implementing the new grow your own teachers scholarship program created by the Grow Your Own Teachers Act.
8. **Link to Full Text of the Rule:** [https://hed.state.nm.us/uploads/documents/5.7.35\\_NMAC\\_DRAFT\\_6-25\\_.pdf](https://hed.state.nm.us/uploads/documents/5.7.35_NMAC_DRAFT_6-25_.pdf)
9. **How Information on the Rule Can Be Obtained:** [http://www.hed.state.nm.us/Upcoming\\_Events.aspx](http://www.hed.state.nm.us/Upcoming_Events.aspx) or from the New Mexico Higher Education Department at (505) 476-8411.
10. **Comment Period and Deadlines:** June 25, 2019 to July 25, 2019 at 4:00 p.m. Written comments may be submitted to the New Mexico Higher Education Department, 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [HigherEd.Info@state.nm.us](mailto:HigherEd.Info@state.nm.us).
11. **Rule Hearing:** July 26, 2019 from 10:30 a.m. to 11:30 a.m. at the New Mexico Higher Education Department, 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505.
12. **Link to Permanent Agency Rulemaking Record:** [http://statenm.force.com/public/SSP\\_RuleHearingSearchPublic](http://statenm.force.com/public/SSP_RuleHearingSearchPublic)

### Adopted Rule Update

1. **Register Issue and Date of Adopted Rule:** Volume 30, Issue 15, August 13, 2019
2. **Date Notice of Proposed Rulemaking Was Reported to the Committee:** July 25, 2019
3. **Link to Proposed Rule Report:** <https://www.nmlegis.gov/handouts/ALESC%20072419%20Item%207%20A.2%20-%20PROPOSED%20RULE%20-%20Grow%20Your%20Own%20Teachers.pdf>
4. **Changes from the Rule as Proposed:** Other than technical changes, the Higher Education Department added the word "paid" before all references to "professional leave", requiring school districts and charter schools to grant paid professional leave to scholarship recipients for college coursework, examinations, and student teaching. The department may be overreaching its statutory authority by imposing this financial requirement on school districts and charter schools. Chapter 230 does not require school districts and charter schools to grant paid professional leave to grow your own teachers program scholarship recipients. Finally, the adopted rule notes a "high-need" teacher position will be defined by the Public Education Department instead of the public school as was noted in the proposed rule. See **Attachment, Adopted Rule, 5.7.35 NMAC, Grow Your Own Teachers Scholarship Program.**

## Summary of Proposed Rule

The June 25, 2019 issue of the *New Mexico Register* contained a proposed new rule to implement the provisions outlined in Laws 2019, Chapter 230 (House Bill 20). Part 35 of 5.7 NMAC would provide guidelines to implement the grow your own teachers scholarship program including eligibility requirements, award procedures, scholarship duration, award terms, and administration of the program.

## Analysis

Grow your own programs create local pipelines to recruit and retain talented individuals who have a comprehensive understanding of the needs of their community. The grow your own teachers scholarship program may enhance efforts to retain high-quality, diverse teachers in their respective New Mexico communities. Research shows grow your own programs are successful because they recruit diverse candidates who are often more representative of the student population than the current teacher workforce. These programs can fill shortages in content areas of high need such as bilingual and special education.

The Higher Education Department (HED) cites Section 9-25-1 et seq. NMSA 1978, which grants the department their general rulemaking authority. The department also cites Chapter 230, which created the new Grow Your Own Teachers Act, a scholarship program that provides opportunities for educational assistants to receive financial assistance as well as professional leave to complete teacher licensure requirements. Part 35 of 5.7 NMAC aligns with all provisions outlined in Chapter 230.

HED surveyed educational assistants prior to proposing 5.7.35 NMAC. Of 834 educational assistants surveyed, 138, or 17 percent, responded they did have a bachelor's degree.

**Definitions.** Pursuant to the proposed new rule, an “educational assistant” is a United States citizen and resident of New Mexico who has worked as an educational assistant in a public school for at least two years, is in good standing with the public school, and is enrolled in or accepted by an undergraduate teacher preparation program.

The proposed new rule includes two definitions that allow flexibility for postsecondary institutions to administer the grow your own teachers scholarship program. Pursuant to the proposed new rule, if an award recipient does not maintain at least half-time enrollment or achieve satisfactory academic progress, the scholarship would be terminated. “Half-time” refers to an enrolled student who carries a half-time academic work load as determined by the institution. “Satisfactory academic progress” refers to maintaining the academic progress toward program completion as determined by the institution. Allowing individual institutions to define these terms may lead to inconsistent standards for award recipients across the state.

**Eligibility.** Educational assistants would be eligible for the grow your own teachers scholarship program if they are a U.S. citizen and resident of New Mexico, are accepted by a Public Education Department (PED)-approved teacher preparation program, have not earned appropriate education credentials to be a licensed teacher, have demonstrated financial need, and are in good standing with the public school. Much of

the language in the eligibility section is duplicative of the language in the definition for an “educational assistant.” Because this definition is also established in statute, the department may wish to remove redundant eligibility provisions in Subsection A of 5.7.35.8 NMAC.

***Award Process.*** Pursuant to 5.7.35 NMAC, teacher preparation programs would be required to appoint a committee to make award recommendations for educational assistants who meet eligibility requirements. The committee would be allowed to prioritize awards for educational assistants who are closest to licensure requirement completion; serve in a bilingual, early childhood, or special education setting; or have declared intent to teach in a high-need teacher position as defined by the public school. It is unclear how a public school would proceed to define a high-need teacher position without a designated process. The department may wish to outline a clear process for this provision.

HED would be required to provide postsecondary institutions with a form so award recipients can petition the public school where they are employed to grant professional leave for college courses, exams, and practice teaching. Pursuant to Chapter 230, public schools will be required to grant professional leave if the educational assistant is a recipient of a grow your own teachers scholarship. However, neither Chapter 230 nor 5.7.35 NMAC include a definition for professional leave, meaning schools would not be required to grant paid professional leave, only professional leave.

PED has indicated schools can use federal Title 2 funds to pay for substitutes while educational assistants are on professional leave pursuant to the Act, although it is unclear if schools have sufficient federal Title 2 funds to cover the cost of substitute teachers. To avoid burdening schools by removing essential personnel, PED and HED indicated to the New Mexico Association of Colleges of Teacher Education that it may be beneficial to grant only one grow your own teachers scholarship per public school.

***Scholarship Duration and Terms.*** Consistent with the provisions outlined in Chapter 230, scholarship recipients would receive awards up to \$6,000 per academic year for no more than five academic years as long as the student maintains satisfactory academic progress or graduates from an eligible institution. Award recipients would be able to apply scholarship funds toward educational expenses including tuition, fees, books, and course supplies.

***Program Administration.*** Pursuant to 5.7.35 NMAC, institutions of higher education would be required to determine initial and continuing student eligibility for the grow your own teachers scholarship; distribute awards to qualifying students; and annually provide HED with financial aid data, including income reported on the Free Application for Federal Student Aid and the number of students enrolled in the teacher preparation programs within the institution. The proposed new rule would require HED to allocate funds to institutions of higher education based on a student need formula calculated according to the financial aid data institutions of higher education are required to provide to HED.

***Termination of Scholarship.*** Pursuant to Part 35 of 5.7 NMAC, an award recipient will have their scholarship terminated if they withdraw from the postsecondary institution

or teacher preparation program, do not maintain at least half-time enrollment, do not achieve satisfactory academic progress, or are in substantial noncompliance with the Grow Your Own Teachers Act.

## Technical Issues

The terms “department”, “educational assistant”, “public school”, and “teacher preparation program” are defined in the proposed new rule and in Chapter 230. Pursuant to the State Rules Act, Sections 14-4-5.7 NMSA 1978, a word or phrase that is defined in applicable statute should not be defined in rule.



## New Mexico Register / Volume XXX, Issue 15 / August 13, 2019

**TITLE 5 POST-SECONDARY EDUCATION**  
**CHAPTER 7 TUITION AND FINANCIAL AID**  
**PART 35 GROW YOUR OWN TEACHERS SCHOLARSHIP PROGRAM**

**5.7.35.1 ISSUING AGENCY:** New Mexico Higher Education Department.  
 [5.7.35.1 NMAC - N, 8/13/2019]

**5.7.35.2 SCOPE:** Provisions of 5.7.35 NMAC apply to all public schools, public post-secondary institutions and tribal colleges in the state of New Mexico.  
 [5.7.35.2 NMAC - N, 8/13/2019]

**5.7.35.3 STATUTORY AUTHORITY:** Section 9-25-1 et seq. NMSA 1978 and Chapter 230, Laws of 2019.  
 [5.7.35.3 NMAC - N, 8/13/2019]

**5.7.35.4 DURATION:** Permanent.  
 [5.7.35.4 NMAC - N, 8/13/2019]

**5.7.35.5 EFFECTIVE DATE:** August 13, 2019, unless a later date is cited at the end of a section.  
 [5.7.35.5 NMAC - N, 8/13/2019]

**5.7.35.6 OBJECTIVE:** The objective of 5.7.35 NMAC is to provide a guideline for implementing the grow your own teachers program created by the Grow Your Own Teachers Act (the Act). The purpose of the program is to encourage educational assistants employed at public schools in New Mexico to complete a public education department approved teacher preparation program at a New Mexico public post-secondary educational institution or a tribal college. The program provides for professional leave and scholarship awards to qualified educational assistants. The scholarship is intended to help defray the educational expenses charged by the institution including tuition, fees, books and course supplies.  
 [5.7.35.6 NMAC - N, 8/13/2019]

**5.7.35.7 DEFINITIONS:**

**A. “Academic year”** means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year.

**B. “Award recipient”** means an educational assistant awarded a scholarship.

**C. “Department”** means the New Mexico higher education department.

**D. “Educational assistant”** means a United States citizen and resident of New Mexico who has worked as an educational assistant in a public school for at least two years and is in good standing with the public school and who is enrolled in or accepted by an undergraduate teacher preparation program at a regionally accredited public post-secondary educational institution in New Mexico.

**E. “FAFSA”** means the free application for federal student aid.

**F. “Half-time”** means a student is meeting the institution’s criteria of half-time enrollment in its teacher preparation program. The institution’s determination may take into account the student’s average enrollment for the academic year and the completion of the public education department’s licensure requirements.

**G. “Institution”** means a regionally accredited New Mexico public post-secondary institution or regionally accredited tribal college.

**H. “Public post-secondary educational institution”** means a research or comprehensive institution, as defined in Article XII, Section 11 of the Constitution of the State of New Mexico, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14 and 16 NMSA 1978.

**I. “Public school”** means a school operating under Article XII of the Constitution of the State of New Mexico and includes constitutional special schools, state institutions and state, federal, or tribal agencies that educate children and employ educational assistants.

**J. “Satisfactory academic progress”** means maintaining the required academic progress toward program completion as determined by the institution.

**K. “Scholarship”** means a grow your own teachers program award.

**L. “Teacher preparation program”** means a program that has been formally approved as meeting the requirements of the public education department and that leads to level one teacher licensure, including a program in a two-year post-secondary educational institution that meets the requirements for a teacher education transfer module established pursuant to Subsection C of Section 21-1B-4 NMSA 1978.

**M. “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. [5.7.35.7 NMAC - N, 8/13/2019]

#### **5.7.35.8 STUDENT ELIGIBILITY AND AWARD PROCESS:**

**A.** A scholarship may be granted to an educational assistant who:

- (1) is a U.S. citizen and resident of New Mexico as defined in 5.7.18.9 NMAC;
- (2) is accepted into an accredited public education department approved teacher preparation program at an eligible institution;
- (3) has not earned appropriate educational credentials to be licensed as a teacher by the public education department;
- (4) has demonstrated financial need as determined by the institution and the student’s FAFSA; and
- (5) is in good standing with the public school.

**B.** The teacher preparation program at the institution shall make awards to students who meet the provisions of Subsection A of 5.7.35.8 NMAC, based on the recommendations of a committee appointed for that purpose. The committee shall prioritize awards to educational assistants that:

- (1) are closest to overall completion of the teacher preparation program;
- (2) serve in a bilingual education setting;
- (3) serve in an early childhood education setting;
- (4) serve in a special education setting; or
- (5) serve in a high-need teacher position as defined by the public education department.

**C.** Award recipients shall petition the public school in which they are employed to grant paid professional leave for college classes, examinations and practice teaching as needed. The form to petition paid professional leave shall be promulgated by the department and made available at the institution. It is the award recipient’s responsibility to ensure the petition form is submitted and approved by the public school. [5.7.35.8 NMAC - N, 8/13/2019]

#### **5.7.35.9 AMOUNT OF SCHOLARSHIP AND DURATION:**

**A.** Institutions shall make awards to qualifying educational assistants based on financial need. The following provisions shall also apply to the scholarship:

- (1) each scholarship award is for a period of one semester;
- (2) the scholarship may apply to educational expenses including tuition, fees, books and course supplies; and
- (3) awards shall not exceed six thousand dollars (\$6,000) per academic year.

**B.** An award recipient may not receive more than five academic years of the scholarship. A scholarship may be renewed as long as the student continues to meet the conditions of eligibility in Subsection A of 5.7.35.8 NMAC and maintains satisfactory academic progress or until the student graduates from an eligible institution.

[5.7.35.9 NMAC - N, 8/13/2019]

#### **5.7.35.10 ADMINISTRATION OF THE PROGRAM:**

**A.** Institutions shall:

- (1) determine initial and continuing student eligibility for the scholarship based on the provisions in Section 8 and Section 9 of 5.7.35 NMAC;
- (2) distribute awards to qualifying eligible students; and
- (3) provide information to the department on an annual basis to be used by the department for calculation of the allocation to the institution. Required information shall include:
  - (a) income reported on the FAFSA; and

(b) the number of students enrolled in a public education department approved teacher preparation program at the public post-secondary institution or tribal college.

(4) annually report the number of students awarded a scholarship who meet the provisions of Subsection B of 5.7.35.8 NMAC.

**B.** The department shall allocate money to public post-secondary educational institutions or tribal colleges based on a student need formula calculated according to:

(1) income reported on the FAFSA; and

(2) the number of students enrolled in a public education department approved teacher preparation program at the institution.

**C.** The public school shall:

(1) grant paid professional leave if the educational assistant is a recipient of a scholarship pursuant to the Act and requires release time to complete teacher preparation program requirements; and

(2) allow the educational assistant to use the distance education resources of the school district to take classes if an educational assistant who is accepted into or enrolled in a teacher preparation program offered by an eligible institution does not live within a reasonable distance of the institution's campus.

[5.7.35.10 NMAC - N, 8/13/2019]

**5.7.35.11 TERMINATION OF SCHOLARSHIP:** A scholarship is terminated upon occurrence of one or more of the following by the award recipient:

**A.** withdrawal from the institution or from the teacher preparation program;

**B.** failure to maintain at least half-time enrollment;

**C.** failure to achieve satisfactory academic progress; or

**D.** substantial noncompliance with the Act or the provisions of 5.7.35 NMAC.

[5.7.35.11 NMAC - N, 8/13/2019]

**HISTORY OF 5.7.35 NMAC: [RESERVED]**