

Proposed Rule Abstract

1. **Agency:** Higher Education Department
2. **Rule Citation:** 5.7.23 NMAC, College Affordability Grant
3. **Rulemaking Action:** Amendment
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Volume 30, Issue 10, May 28, 2019
5. **Effective Date:** July 30, 2019
6. **Citation to Specific Legal Authority:** Sections 21-21L-1 through 21-21L-8 NMSA 1978
7. **Short Explanation of the Rule's Purpose:** To increase the program's maximum allowable grant award amount from \$1,000 to \$1,500 per semester and the minimum amount distributed to the college affordability scholarship fund from \$2 million to \$3 million.
8. **Link to Full Text of the Rule:**
https://statenm.my.salesforce.com/sfc/p/#4100000137C2/a/2M000000Usmv/yAKMIB_UtGH7Dj1Fz_SQ5_I572md1.Sy3A4vKtUfb9o
9. **How Information on the Rule Can Be Obtained:** From the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505, or from HigherEd.Info@state.nm.us
10. **Comment Period and Deadlines:** May 28, 2019 to July 8, 2019 at 4:00 p.m. Written comments may be submitted to the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505, or to HigherEd.Info@state.nm.us.
11. **Rule Hearing:** July 8, 2019, from 11:30 a.m. to 12:00 p.m., at the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505
12. **Link to Permanent Agency Rulemaking Record:** http://statenm.force.com/public/SSP_RuleHearingSearchPublic

Summary of Proposed Rule

The May 28, 2019 issue of the *New Mexico Register* contained a notice of proposed rulemaking for Part 23 of 5.7 NMAC, College Affordability Grant. The proposed rule would update both the total minimum amount to be distributed to the college affordability scholarship fund and the maximum allowable student grant per semester to reflect changes enacted in Laws 2019, Chapter 56. See, **Attachment, Proposed Rule, 5.7.23 NMAC, College Affordability Grant.**

Analysis

As statutory authority for the rulemaking, the Higher Education Department (HED) cites the College Affordability Act, Sections 21-21L-1 through 21-21L-8 NMSA 1978. Additionally, HED cites Laws 2019, Chapter 56 (HB127), which increased the maximum allowable award from the college affordability fund to qualifying, eligible students, as determined by department rule. Awards for fulltime students would be

increased from \$1,000 per semester to \$1,500 per semester. Award amounts for eligible part-time students — with eligibility under the rule being defined as including students who attend school at least half-time — would be increased. For half-time students, the maximum award amount would be increased from \$500 per semester to \$750 per semester, while maximum awards for students who are enrolled three-quarters-time would be increased from \$750 per semester to \$1,250 per semester.

HB127 also increased the maximum annual student award from \$2,000 to \$3,000. The bill further increased the minimum annual distribution from the college affordability endowment fund to the college affordability scholarship fund from \$2 million to \$3 million. The proposed rule directly reflects these statutory amendments.

Finally, the rule proposes to change two references to “general educational development certificate” (GED) to “high school equivalency credential recognized by the state of New Mexico” to conform to statutory changes made Laws 2014, Chapter 31 (Senate Bill *44) to remove references to GED, which is a proprietary, trademarked term owned by the American Council on Education.

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 23 COLLEGE AFFORDABILITY GRANT

5.7.23.1 ISSUING AGENCY: New Mexico Higher Education Department.
[5.7.23.1 NMAC - N, 12/31/2007]

5.7.23.2 SCOPE: Provisions of 5.7.23 NMAC apply to all state public post-secondary institutions in the state of New Mexico.
[5.7.23.2 NMAC - N, 12/31/2007]

5.7.23.3 STATUTORY AUTHORITY: Sections 21-21L-1 through 21-21L-8, NMSA 1978.
[5.7.23.3 NMAC - N, 12/31/2007]

5.7.23.4 DURATION: Permanent.
[5.7.23.4 NMAC - N, 12/31/2007]

5.7.23.5 EFFECTIVE DATE: December 31, 2007, unless a later date is cited at the end of a section.
[5.7.23.5 NMAC - N, 12/31/2007]

5.7.23.6 OBJECTIVE: The objective of 5.7.23 NMAC is to encourage New Mexico students with financial need, who do not qualify for other state grants or scholarships, to attend and complete educational programs at a New Mexico public college or university or a tribal college. This level of financial support is intended to help defray the cost of tuition, fees, books and course supplies at the public postsecondary institution where the student is enrolled.
[5.7.23.6 NMAC - N, 12/31/2007; A, 5/30/2008]

5.7.23.7 DEFINITIONS:

- A. "Department"** means the New Mexico higher education department.
 - B. "Grant"** means the college affordability grant.
 - C. "Academic year"** means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year.
 - D. "Award recipient"** means a student awarded a college affordability grant.
 - E. "Eligible institution"** means any New Mexico public post-secondary institution or accredited tribal college.
 - F. "Satisfactory academic progress"** means maintaining the required academic progress toward degree completion as determined by the institution.
 - G. "Half-time"** means an enrolled student who is carrying a half-time academic work load as determined by the institution according to its own standards and practices.
 - H. "Undergraduate student"** means a student who is enrolled in a degree-seeking program and has not earned his or her first baccalaureate degree.
 - I. "Returning adult"** means a student enrolling in a public post-secondary educational institution at any time later than the first semester following high school graduation or the award of a general educational development certificate high-school equivalency credential recognized by the State of New Mexico.
 - J. "FAFSA"** means the free application for federal student aid.
- [5.7.23.7 NMAC - N, 12/31/2007; A, 5/30/2008; A, 7/30/2019]

5.7.23.8 STUDENT ELIGIBILITY:

- A. First year eligibility.** College affordability grants may be granted to an individual who:
 - (1) is a resident of New Mexico as defined in 5.7.18.9 NMAC or is eligible for the nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;
 - (2) is enrolled at least half time as an undergraduate student at a New Mexico public college or university or tribal college;
 - (3) has demonstrated financial need as determined by the eligible college or university; and
 - (4) has completed a high school diploma or general educational development (GED) diploma high-school equivalency credential recognized by the State of New Mexico.

- B.** Students demonstrating a financial need shall:
- (1) complete the FAFSA;
 - (2) have unmet need after all other financial aid has been awarded; and
 - (3) may not be receiving any other state grants or scholarships.
- C.** Continuing eligibility. Grants may be renewed to an individual who:
- (1) maintains satisfactory academic progress;
 - (2) remains enrolled for at least half- time status; and
 - (3) continues to demonstrate financial need as determined by the college or university.

[5.7.23.8 NMAC - N, 12/31/2007; A, 5/30/2008; A, 7/30/2019]

5.7.23.9 AMOUNT OF GRANT:

A. Each grant award is for a period of one year and shall not exceed ~~[\$1,000]~~ **one thousand five hundred dollars (\$1,500)** per semester. The grant may be renewed on an annual basis or until the student graduates with a bachelor's degree from an eligible institution.

B. Summer grants may be provided, if the amount thereof would not cause the two semester cumulative limit of ~~[\$2,000]~~ **three thousand dollars (\$3,000)** to be exceeded.

C. Transferability from institution to institution will be subject to available funding.

D. A leave of absence may be approved by the institution if extenuating circumstances exist for a period not to exceed one year.

E. Part-time awards will be pro-rated.

(1) Grants offered to students enrolled three-quarters time may not exceed ~~[\$750]~~ **one thousand one hundred and twenty five dollars (\$1,125)** per semester.

(2) Grants offered to students enrolled half-time may not exceed ~~[\$500]~~ **seven hundred and fifty dollars (\$750)** per semester.

[5.7.23.9 NMAC - N, 12/31/200; A, 5/30/2008; A, 7/30/2019]

5.7.23.10 ADMINISTRATION OF THE COLLEGE AFFORDABILITY GRANT:

A. Eligible public colleges and universities shall:

- (1) develop a method to notify students of their possible eligibility;
- (2) designate an officer responsible for administering the program; the officer designated by the institution shall be responsible for determining initial and continuing student eligibility for the college affordability grant under the terms of these rules and regulations;

(3) provide an annual report to the department to include the number of grants, amount of grants awarded, number of grants renewed, and ethnicity and gender of students receiving the grant;

(4) enter into consortium agreements, as defined in the code of federal regulations, 34 CFR 6685, in order to greater facilitate the enrollment of students and to facilitate the student's participation in this program.

B. The department shall:

(1) allocate money to eligible colleges and universities based on a student need formula calculated according to income reported on the FAFSA and on the percentage of the institution's students classified as returning adults who are other wise ineligible for state financial aid;

(2) invest, through the state investment council, the appropriated funds, while transferring fifty percent of the interest or at least ~~[\$2,000,000]~~ **three million dollars (\$3,000,000)** to the college affordability scholarship fund to provide for new awards;

(3) convene an annual meeting with the financial aid directors of eligible institutions to review the program; and

(4) conduct audits to ascertain compliance with rules and regulations.

C. At least a random audit of each participating institution's records shall take place on at least an annual basis by members of the department staff. If, during the audit process, evidence indicates that a student should not have received a scholarship, the institution will be held harmless for a semester payment, if the student's file is appropriately documented. The institution must notify the student of termination of their award, subject to continuing eligibility requirements.

[5.7.23.10 NMAC - N, 12/31/2007; A, 5/30/2008; A, 7/30/2019]

5.7.23.11 TERMINATION OF SCHOLARSHIPS: A scholarship is terminated upon noncompliance by the award recipient with the college affordability grant rules, regulations or procedures as promulgated by the department.

[5.7.23.11 NMAC - N, 12/31/2007]

HISTORY OF 5.7.23 NMAC: [RESERVED]

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