

## NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public rulemaking hearing on July 8, 2019. The hearing will begin at 12:00 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed amendments to **5.7.20 NMAC, LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM.**

### **Amendments:**

5.7.20.2 NMAC, SCOPE

5.7.20.6 NMAC, OBJECTIVE

5.7.20.7 NMAC, DEFINITIONS

5.7.20.8 NMAC, STUDENT ELIGIBILITY

5.7.20.9 NMAC, DURATION OF SCHOLARSHIP

5.7.20.10 NMAC, AMOUNT OF SCHOLARSHIP

5.7.20.11 NMAC, ADMINISTRATION OF THE LEGISLATIVE LOTTERY SCHOLARSHIP

### **Purpose:**

The purpose of the proposed rule change is to include tribal colleges as eligible institutions for the Legislative Lottery Scholarship Program. The proposed rule change also modifies student eligibility criteria including provisions related to the federal Individuals with Disabilities Education Act, part-time enrollment, requirements and funding for students on a probationary status and requirements for students that have received a high school equivalency credential. Several of the proposed amendments are based upon changes that were made to the program through the enactment of S.B. 407, 54th Leg., 1st Sess. (N.M. 2019) and S.B. 179, 54th Leg., 1st Sess. (N.M. 2019). Pursuant to S.B. 407, tribal colleges (tribally, federally, or congressionally chartered post-secondary educational institutions with a physical campus in New Mexico and that are accredited by the Higher Learning Commission) are now qualifying institutions for the program. Pursuant to S.B. 179, New Mexico residents that had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act and otherwise met the program qualifications shall be eligible for the program.

### **Summary of proposed changes:**

The amendment to Section 5.7.20.2 NMAC adds tribal colleges to the scope of the rule pursuant to S.B. 407.

Amendments to Section 5.7.20.6 NMAC are made to reference tribal colleges. Pursuant to S.B. 179, the amendment also adds the provision that New Mexico residents that had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act and otherwise met the program qualifications shall be eligible for the program.

The amendment to Section 5.7.20.7 NMAC adds the defined term “Tribal college” and updates other defined terms to include the reference to Tribal college. The subsequent definition “Tuition scholarship” is renumbered to accommodate for the new definition. The definition of “Probation” is modified to capture a reference to a Paragraph the Department proposes to renumber. The definitions of “Program semesters” and “Qualified student” are modified to accommodate for new proposed provisions allowing part-time enrollment before the qualifying semester. The definition of “Qualified student” is also modified to clarify that a student must have received a high school equivalency credential that is “recognized by the State of New Mexico.”

The amendment to Section 5.7.20.8 clarifies that a student must have received a high school equivalency credential that is “recognized by the State of New Mexico” to be eligible to receive a scholarship. The amendment proposes to move Paragraph 6 and Paragraph 7 of Subsection A into a new Paragraph B. The purpose of the restructuring of the section is to better distinguish the basic student eligibility requirements and other provisions which relate to eligibility. The amendment adds new provisions to allow for part-time enrollment during the 16 months after graduation or receipt of a high school equivalency credential recognized by the State of New Mexico. Former Subsection B is renumbered to Subsection C and former Subsection C is renumbered to Section D. The amendment to Subsection D removes the requirement that a student shall maintain enrollment and complete the

probationary semester at the educational institution where eligibility was lost. The amendment to Subsection D provides that a student may receive scholarship funding while on probationary status. The Paragraphs in Subsection D are renumbered to accommodate for the changes.

Amendments to 5.7.20.9 NMAC are made to reference tribal colleges. Clarifying terms are also added to create consistency throughout the rule.

Amendments to 5.7.20.10 NMAC are made to reference tribal colleges.

Amendments to 5.7.20.11 NMAC are made to reference tribal colleges. A reference to a Paragraph in Section 8 of the rule is updated based on proposed renumbering of Paragraphs in Section 8.

**Details for Obtaining a Copy, Public Hearing and Comments:** The proposed rule is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the “Events” section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact [HigherEd.Info@state.nm.us](mailto:HigherEd.Info@state.nm.us) or (505)476-8411.

A public hearing will be held from 12:00 p.m. until 1:00 p.m. at NMHED on July 8, 2019. Any person who is or may be affected by this proposed rule may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [HigherEd.Info@state.nm.us](mailto:HigherEd.Info@state.nm.us). Written comments must be received no later than 4:00 p.m. on June 28, 2019.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Sections 6-24-1 et seq. NMSA 1978 and Sections 21-21N-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 476-8411 or email [HigherEd.Info@state.nm.us](mailto:HigherEd.Info@state.nm.us) ten (10) business days prior to the hearing.