

Armijo, Alicia, NMHED

From: Armijo, Alicia, NMHED
Sent: Wednesday, July 3, 2019 4:32 PM
To: Force, Kevin
Cc: Rommel, Harrison, NMHED; Liggett, Sandy, NMHED
Subject: RE: [EXT] Notice of Proposed Rulemaking for Part 20 of 5.7 NMAC, Legislative Lottery Scholarship Program Technical Issues and Questions

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Good afternoon Kevin Force,

This email is to confirm receipt of your comments regarding the proposed rule draft for 5.7.20 NMAC LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM. Although the deadline for written comments was June 28, 2019 these comments will be included as part of the rulemaking record and will be considered by NMHED when preparing the final versions of the rules.

Best Regards,

Alicia Armijo

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From: Rommel, Harrison, NMHED <Harrison.Rommel@state.nm.us>
Sent: Monday, July 1, 2019 3:44 PM
To: Force, Kevin <Kevin.Force@nmlegis.gov>
Cc: Armijo, Alicia, NMHED <Alicia.Armijo@state.nm.us>
Subject: Re: [EXT] Notice of Proposed Rulemaking for Part 20 of 5.7 NMAC, Legislative Lottery Scholarship Program Technical Issues and Questions

Kevin, thank you for your comments and observations. We will review your suggestions and I'll get back to you after we've had a chance to go through them. Some of the definitions in the Lottery rule may have become misaligned when SB280 (a "clean up" bill) was passed in 2016. We do try and comport with the statutory definitions so we'll check into this.

The oversight of the veteran eligibility and their "gap year" can be addressed in rule but we have made sure that the financial aid officers are aware of their eligibility criteria. Veterans already had an extended period between discharge and enrollment prior to SB420 but this never made it into the NMAC. It certainly is prudent to add them in at this time.

Alicia Armijo is our lead on rule promulgation and so I have copied her in. If you have further comments please make sure to include her as well.

Thanks again,

-Harry

From: "Force, Kevin" <Kevin.Force@nmlegis.gov>

Date: Monday, July 1, 2019 at 3:06 PM

To: "Rommel, Harrison, NMHED" <Harrison.Rommel@state.nm.us>

Subject: [EXT] Notice of Proposed Rulemaking for Part 20 of 5.7 NMAC, Legislative Lottery Scholarship Program Technical Issues and Questions

Good afternoon, Harry,

This is Kevin Force with LESC. I wanted to reach out to you to discuss a number of technical and other issues we found when reviewing the Notices of Proposed Rulemaking for the Legislative Lottery Scholarship Program (5.7.20 NMAC) and the College Affordability Grant (5.7.23 NMAC), published May 28, 2019.

First, there are a number of terms defined in the rule that are already defined in statute. Several of these are defined identically to corresponding statute, including "community college," "comprehensive institution," "department," "research institution," and "tribal college." Several terms are defined slightly differently than they are in corresponding statute, including "full-time," "program semester," "public postsecondary institution," and "qualified student."

As you probably know, the State Rules Act, at Section 14-4-5.7 NMSA 1978 indicates terms defined in applicable statute "should not" be redefined in rule. The statutory language is not prescriptive, in this instance. Drafters and sponsors of HB58, which updated the State Rules Act in 2017, were reluctant to make that provision so prescriptive that it would compel agencies to open up all their old rules to address duplicative definitions. Nevertheless, duplicative definitions should be avoided, when possible. At least those terms whose definitions do not match corresponding statutory language, like "qualified student," and the others, should be removed from the rule. Section 14-4-5.7 NMSA 1978 also notes any conflict between corresponding statutory and regulatory definitions will always be resolved in favor of statute.

Also, had you considered removing the language that addresses students with disabilities who leave the state for high school and return for college from the "Objective" section of the rule and including it in the "Eligibility" section, 5.7.20.8, where it seems as if it may be more appropriately located?

Finally, with regard to 5.7.20 NMAC, the College Affordability Grant, Laws 2017, Chapter 97, (Senate Bill 420) extended eligibility for students to qualify for the LLSP to within one year of discharge from the U.S. armed forces, yet there doesn't appear to be any mention of this in the rule. Am I missing that? Is it in another regulatory section, perhaps? If not, does HED intend to adopt rules to allow for that extended eligibility for former service members?

I'd appreciate any feedback you can offer, and of course appreciate your help and communication. Please reach out when you get a chance. I can be found at this email address, of course, and at 505-986-4595, for my office, and 602-881-1237, for my cell.

Thanks very much!

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