

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 36 COMMUNITY GOVERNANCE ATTORNEY PROGRAM

5.7.36.1 ISSUING AGENCY: State of New Mexico Higher Education Department.
[5.7.36.1 NMAC - N, X/XX/2024]

5.7.36.2 SCOPE: Provisions of 5.7.36 NMAC apply to all participants of the tuition and legal services loan program described in this rule.
[5.7.36.1 NMAC - N, X/XX/2024]

5.7.36.3 STATUTORY AUTHORITY: Section 21-21Q-1 et seq. NMSA 1978.
[5.7.36.3 NMAC - N, X/XX/2024]

5.7.36.4 DURATION: Permanent.
[5.7.36.4 NMAC - N, X/XX/2024]

5.7.36.5 EFFECTIVE DATE: Month XX, 2024
[5.7.36.5 NMAC - N, X/XX/2024]

5.7.36.6 OBJECTIVE: The objective and purpose of 5.7.36 NMAC is to increase the number of community governance attorneys through the use of loans. The loans are available to law students commencing their final year of law school who commit to employment as a community governance attorney with a qualifying employer for two years. Upon completion of those two years of employment, the loan shall be forgiven. In the event the participant does not complete two years of employment as a community governance attorney repayment shall be required.

5.7.36.7 DEFINITIONS:

- A. “Commission”** means the community governance attorney commission.
- B. “Community governance attorney”** means an attorney with a legal practice that is focused on the requirements and challenges faced by small political subdivisions and unincorporated communities, including the promulgation of land and water use ordinances, contracting and the collection or payment of taxes and fees.
- C. “Community Governance Attorney Act”** means Sections 21-21Q-1 through 21-21Q-5, NMSA 1978.
- D. “Course of study”** means a law student’s legal education, including clinical and internship programs and preparation courses for the state bar examination.
- E. “Department”** means the New Mexico higher education department.
- F. “Extenuating circumstances”** means circumstances not within the control of the recipient.
- G. “Loan”** means a grant of funds to cover law school tuition and fees and a reasonable living stipend prior to employment as a community governance attorney and up to half the salary of a full-time community governance attorney for two years that is under a contract between the department and a student, requiring repayment with services or repayment of principal and interest and any fees.
- H. “Participant”** means an individual who has applied to participate in, has been accepted into and has signed a contract agreeing to the terms of the program.
- I. “Program”** means the loan for service program to provide legal services for land grants-mercedes, acequias and colonias.
- J. “Qualifying employer”** means:
 - (1) the university of New Mexico;
 - (2) a nonprofit organization whose mission is to provide a range of free legal services to low-income New Mexicans; or
 - (3) a service provider approved by the commission and the department.

[5.7.36.7 NMAC - N, X/XX/2024]

5.7.36.8 COMMUNITY GOVERNANCE ATTORNEY COMMISSION:
The commission is created to advise the department on matters relating to the administration of the Community Governance Attorney Act.

A. The commission shall be appointed and shall be composed of:

- (1) The secretary of the department or secretary's designee;
- (2) The dean of the university of New Mexico or the dean's designee;
- (3) Three members appointed by the governor:
 - (a) one member shall be a member of an acequia;
 - (b) one member shall be a current or past member of the land grant council; and
 - (c) one member shall be a current or past member of the colonias infrastructure board and a resident of a colonia.

B. The responsibilities of the commission shall include:

- (1) making recommendations to the department on applicants for the program;
- (2) advising the department on the adoption of rules to implement the provisions of the Community Governance Attorney Act.
- (3) soliciting proposals and entering into contracts for the expenditure of the community governance attorney and loan program; and
- (4) adopting such rules as are necessary to carry out the provisions of Section 21-21Q-4, NMSA, 1978.

[5.7.36.8 NMAC - N, X/XX/2024]

5.7.36.9 APPLICANT ELIGIBILITY: To be eligible for this program, an applicant shall:

A. have completed the first two years of law school and be in good academic standing at the university of New Mexico school of law as determined by the school;

B. be a resident of New Mexico; and

C. declare an intent to serve as a community governance attorney in New Mexico.

[5.7.36.9 NMAC - N, X/XX/2024]

5.7.36.10 SELECTION OF LOAN RECIPIENTS: The department shall award loan recipients recommended by the commission based on the following considerations and preferences:

A. the ability, character and qualifications of each applicant through the review of the applicant's educational transcripts, letters of recommendation and references; and

B. the demonstrated interest of the applicant in serving as a community governance attorney.

[5.7.36.10 NMAC - N, X/XX/2024]

5.7.36.11 RESPONSIBILITIES OF THE DEPARTMENT:

The department shall:

A. adopt rules as are necessary to carry out the provisions of the program; and

B. administer the program, including:

- (1) consultation with the university of New Mexico school of law and the commission, to publicize the program to law students and prospective law students;
- (2) coordination of a standard application process including preparation of application forms and facilitation of the application review by the commission;
- (3) disbursement of funds;
- (4) record keeping on participants including:
 - (a) participant's academic standing status;
 - (b) progress toward completion of final year of law school;
 - (c) loan contracts including contracts between the participant and the department and contracts between the commission and qualifying employers; and
 - (d) location and time employed as a community governance attorney;
 - (e) verification of qualification for forgiveness for service; and
- (5) preparing annually a report that includes the following information:
 - (a) number of the participants employed as a community governance attorneys;
 - (b) number of participants who have not completed their course of study;
 - (c) names and addresses of participants; and
 - (d) names and locations of practice of participants employed as community governance attorneys.

[5.7.36.11 NMAC - N, X/XX/2024]

5.7.36.12 LOAN AWARDS: The department may award a loan to one or two applicants each year who will be entering their final year of law school under the following conditions and limitations.

A. The department shall set the amount of the portion of the loan that will pay for an applicant's law school tuition, fees and a reasonable living stipend after consulting with the university of New Mexico school of law regarding tuition and average living stipend and considering the availability of funds.

B. Upon selection of an applicant to receive a loan, a contract shall be drawn between the applicant and the department. The signed contract indicates the applicant's acceptance into the program.

C. In its annual determination of the number of loan awards, the department shall consider funding availability for loans for current participants.

[5.7.36.12 NMAC - N, X/XX/2024]

5.7.36.13 LOAN REPAYMENT AND FORGIVENESS: All loans shall be forgiven or repaid to the state together with interest according to the following provisions:

A. The department shall forgive one hundred percent of the principal plus accrued interest for participants who after completion of their course of study, are employed for two consecutive years as a community governance attorney by a qualified employer.

B. The department shall forgive fifty percent of the principal plus accrued interest for participants who, after completion of their course of study, are employed for one year as a community governance attorney by a qualified employer.

C. Participants shall complete a full year of employment to receive credit for that year.

D. A participant who fails to carry out their employment obligations, in whole or in part, is subject to the following provisions:

(1) If a participant completes the participant's law school education and does not serve as a community governance attorney for a period of at least one year, the department shall assess a penalty of the principal due, plus eighteen percent interest, unless the department finds acceptable extenuating circumstances that prevent the participant's compliance with the employment obligations as provided in 5.7.36 NMAC.

(2) The full penalty shall apply unless the circumstances reflect that the penalty should be reduced on a prorated basis reasonably reached based upon the degree of control which the recipient has over the failure to carry out their employment obligation. The recipient shall have the burden of proof.

(3) If the department does not find acceptable extenuating circumstances for the participant's failure to carry out their employment obligations, the department shall require immediate repayment of the unpaid principal amount of the waiver plus accrued interest owed the state plus the amount of any penalty assessed pursuant to 5.7.36 NMAC.

(4) In all other cases, loans shall bear interest at seven percent per year.

E. The maximum period of repayment shall be ten years, commencing six months from the date the participant completes or discontinues the course of study. Subject to applicable statutory limitations, the department may extend or modify the repayment period for good cause.

F. In the event it becomes necessary, the department may postpone loan repayments if the participant is willing, but financially unable to make payments under the repayment schedule, deferral of repayment obligation may be considered for the following reasons:

(1) the participant is serving up to a maximum of three years as an active-duty member of the armed forces of the United States;

(2) the participant is temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit of a qualified physician;

(3) the participant is seeking but unable to find full-time employment for a single period not to exceed twelve months;

(4) the participant is unable to secure employment for a period not to exceed 12 months;

(5) the participant is working in a judicial clerkship or fellowship;

(6) other extenuating circumstances as provided for under the federal Family and Medical

Leave Act of 1993; or

(7) at the determination of the department.

G. Authorized charges and fees:

(1) Late charges: Participant may be charged five percent of the installment payment or five dollars, whichever is less, on any payment made later than 10 days after it is due.

(2) Attorney fees, other charges and costs: Participant shall agree to pay all reasonable attorney fees, and other costs and charges necessary for the collection of any waiver amount not paid when due.

H. Participants shall notify the department in advance of any change of address and of any action which necessitates reconsideration of a promissory note. A participant's failure to notify the department and to execute a promissory note on request shall cause the full amount of principal and accumulated interest to become due immediately.

[5.7.36.13 NMAC - N, X/XX/2024]

5.7.36.14 CONTRACTS: A contract shall be drawn between each participant and the department on behalf of the state of New Mexico. The contract shall:

A. provide for the payment by the department of a specified sum as determined in 5.7.36.13 NMAC;
B. state that immediately upon completion or termination of the student's law school education, all interest then accrued shall be capitalized;

C. state the conditions of repayment or forgiveness as detailed in 5.7.36.13 NMAC;
D. state that the loan shall bear interest at the designated rate per annum from the date of disbursement until paid, make provision for conversion to a payout note as shown in 5.7.36 NMAC and state that interest will be charged on the unpaid balance of the principal;

E. state the legal responsibilities of the participant and that delinquent loans shall be referred to the department for appropriate action, which may include referral to the office of the attorney general;

F. state that the participant's obligations of the contract with the department shall be binding on participant's estate.

G. state that the department may cancel any contract after providing 30 days written notice to the participant for any reasonable and sufficient cause;

H. state that in the event a participant fails to make any payment when due, the entire indebtedness including interest due and accrued thereon shall, at the option of the department, become immediately due and payable; and

I. state that jurisdiction and venue shall be proper in Bernalillo County or Santa Fe County, New Mexico for purposes of any suit to enforce the contract.

[5.7.36.14 NMAC - N, X/XX/2024]

5.7.36.15 FUND FOR LEGAL SERVICES

A. The commission shall solicit proposals from qualifying employers.

B. The commission shall enter into contracts with qualifying employers to provide community governance attorney services to acequias, land grants-mercedes and low-income residents of colonias on issues regarding the governance of colonias.

C. Each selected contractor shall demonstrate sufficient matching with non-state funding to provide a full-time community governance attorney position.

D. The contract shall provide no more than one-half of the funding for a full-time community governance attorney position. The maximum salary for such a position shall not exceed the salary provided in Section 21-21Q-3 NMSA 1978.

[5.7.36.15 NMAC - N, X/XX/2024]

5.7.36.16 REPORTS:

The department shall submit a report to the governor and the legislature prior to each regular legislative session. The report shall describe the activities during the previous years, including the statistics, and analysis of the progress of the Community Governance Attorney Act.

[5.7.36.16 NMAC - N, X/XX/2024]

History of 5.7.36 NMAC: [RESERVED]