

Armijo, Alicia, HED

From: Brandon R Toensing <BToensing@salud.unm.edu>
Sent: Thursday, June 6, 2024 3:40 PM
To: Info, HigherEd, HED
Cc: Scot Sauder
Subject: [EXTERNAL] Comments re Rule 5.7.37, NMAC, Opportunity Scholarship
Attachments: Comments to Notice of Proposed Rulemaking - Opportunity Scholarship.pdf

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Thank you for promulgating these rules following the amendments to the Opportunity Scholarship Act. The University of New Mexico appreciates the opportunity to comment on the proposed regulations.

On behalf of UNM, at the request of Interim General Counsel, Scot Sauder, attached are UNM's comments to the proposed rulemaking concerning NMAC 5.7.37, New Mexico Opportunity Scholarship Program.

Thank you for your consideration of our comments.

Best regards,

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TO: New Mexico Higher Education Department

VIA: HigherEd.Info@hed.nm.gov

FROM: The University of New Mexico

DATE: June 6, 2024

RE: Comments to Notice of Proposed Rulemaking re
NMAC 5.7.37, New Mexico Opportunity Scholarship

The comments below focus on UNM's concern that the proposed rule creates some confusion regarding initial and continuing eligibility for the Opportunity Scholarship. UNM recommends certain terms be defined, or be defined more clearly, to provide better guidance to higher ed institutions. For example, in order to determine eligibility based on credits earned, the definition of Academic Year is critical (i.e., when does the academic year start and end). In addition, four-year institutions need to be able to determine whether a summer semester can be used as a qualifying semester for students transferring from a two-year institution. Finally, UNM recommends the regulations address the treatment of dual credit hours in assessing the cumulative GPA and earned associate's degree(s) and eligibility for the Opportunity Scholarship.

UNM's specific comments are as follows:

1. Proposed Rule: Section 5.7.37.7 Definitions

Recommendation/Comment: For sections (K) and (M), the proposed rule could be interpreted to mean that a student who enrolls part-time after high school graduation may continue as a part-time student even if they do not enroll full-time within 16 months. With the removal of the definition of "full-time student", enrollment requirements are inconsistent with those applicable to the Lottery Scholarship, causing confusion for students and institutions.

2. Proposed Rule: Section 5.7.37.8 Student Eligibility

Recommendation/Comment: The proposed changes to A(1) make it unclear whether associate's degrees earned during dual credit would not be considered toward eligibility. The proposed changes to A(2) also make it unclear whether there is a requirement for completion or earned hours. As written, the changes can be interpreted that "recent grads" can be enrolled for less than full time and still receive opportunity funding. In A(4), it is also unclear whether dual-credits earned will contribute toward a student's cumulative GPA. The additional language in B(3) outlines the credit-hour thresholds, but because the term "full time" was removed from these rules, and funding for the Lottery scholarship requires fulltime enrollment, this may create operational complications or confusion. Referring to "qualified student" rather than recent graduate could make this clearer.

3. Proposed Rule: Section 5.7.37.11 Duration of Scholarship

Recommendation/Comment: It is unclear whether the outlined hour cap of 160 hours applies to students with accessibility accommodations. There may be students with accommodations that may not qualify for the Opportunity, under the new language, which may cause confusion to students or operational complications.

4. Proposed Rule: Section 5.7.37.12 Amount of Scholarship

Recommendation/Comment: For A(2) it is unclear whether accelerated programs can be fully paid and not limited to 9-hrs in summer. The language establishes clear thresholds, but for institutions administering the Scholarship, it may be unclear whether accelerated programs, which require enrollment in more than 9 hours, qualify for full funding or if institutions need to consider the 9-hour limit. For A(3), it is unclear what the exact meaning of “institutional aid” is. Institutional aid is not traditionally dependent on tuition and/or fees, and can be applied to any component of students’ cost of attendance. It is unclear how institutions will apply that aid before Opportunity funding. This vagueness may cause operational issues for institutions.

5. Proposed Rule: 5.7.37.13 Administration

Recommendation/Comment: For A(9), it is unclear what is meant by merit-based and institutional award packages. These types of award packages can vary, and are often not tuition/fee specific, and can be applied to any component of students’ cost of attendance. By requiring that these forms of aid be applied before the Lottery or Opportunity Scholarship is considered contrary to the intent of the merit awards. The proposed order of application possibly disincentives students to strive for these merit awards when they realize that they gain no direct benefit or ability to use the funds for incidentals or other costs of attendance. It is unclear how/whether institutional aid will still be applicable. It is also unclear whether merit-based or institutional aid should be applied first in any given semester or only a first-time qualifying semester. Clarification regarding whether this would apply to summer or fall or spring would provide institutions with more direction on this aspect.