

**TITLE 5 POST-SECONDARY EDUCATION**  
**CHAPTER 7 TUITION AND FINANCIAL AID**  
**PART 31 PUBLIC SERVICE LAW LOAN REPAYMENT PROGRAM**

**5.7.31.1 ISSUING AGENCY:** State of New Mexico Higher Education Department  
[5.7.31.1 NMAC - N, 12/31/2007]

**5.7.31.2 SCOPE:** Provisions for 5.7.31 NMAC apply to certain practicing public law professionals in New Mexico.  
[5.7.31.2 NMAC - N, 12/31/2007]

**5.7.31.3 STATUTORY AUTHORITY:** Sections 21-22F-1 through 21-22F-11, NMSA 1978.  
[5.7.31.3 NMAC - N, 12/31/2007]

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

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

**5.7.31.6 OBJECTIVE:** The objective of the public service law loan repayment program is to improve access to the justice systems in New Mexico by increasing the number of attorneys in public service employment through a legal education loan repayment program.  
[5.7.31.6 NMAC - N, 12/31/2007]

**5.7.31.7 DEFINITIONS:**

- A. "Department"** means the New Mexico higher education department.
- B. "Committee"** means the public service law advisory committee.
- C. "Legal education"** means education at an American bar association accredited law school and any bar review preparation courses for the state bar examination.
- D. "Loan"** means money allocated to defray the costs incidental to a legal education under a contract between the federal government or a commercial lender and a law school student, requiring either repayment of principal and interest or repayment in services.
- E. "Participating attorney"** means an attorney who receives a loan repayment award from the department pursuant to the provisions of the public service law loan repayment program.
- F. "Public service employment"** means employment with:
  - (1) an organization that is exempt from taxation pursuant to Section 501 (c) (3) of Title 26 of the United States Code and that provides for the care and maintenance of indigent persons in New Mexico through civil legal services;
  - (2) the public defender department; or
  - (3) a New Mexico district attorney's office.

[5.7.31.7 NMAC - N, 12/31/2007; **A, 7/24/2018**]

**5.7.31.8 HIGHER EDUCATION DEPARTMENT - POWERS AND DUTIES:**

- A.** The department may:
  - (1) grant an award to repay loans obtained for legal education expenses of a participating attorney as consideration and inducement to the attorney to engage in public service employment; and
  - (2) delegate to other agencies or contract for the performance of services required by the provisions of the public service law repayment program.
- B.** The department shall make a full and careful investigation of the ability, character and qualifications of each applicant and determine fitness to become a participating attorney in the public service law loan repayment program.

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

**5.7.31.9 LOAN REPAYMENT PROGRAM ELIGIBILITY AND AWARD CRITERIA:**

**A.** An applicant shall be licensed to practice in New Mexico as an attorney and shall declare intent to practice as an attorney in public service employment.

**B.** Prior to submitting an application to the public service law loan repayment program, an applicant shall apply to all available legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies.

**C.** An applicant who intends to practice as an attorney in a public service employment position that earns more than [~~fifty-five~~] seventy-five thousand dollars [~~(\$55,000)~~] (\$75,000) per year is not eligible for participation in the public service law loan repayment program.

**D.** Prior to receiving a loan repayment award, the applicant shall file with the department:

- (1) a declaration of intent to practice as an attorney in public service employment;
- (2) proof of prior application to all legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies; and
- (3) documentation that includes the applicant's total legal education debt, salary, any amounts received by the applicant from other law loan repayment programs and other sources of income deemed by the department as appropriate for consideration; provided that the applicant shall not be required to disclose amounts of income from military service.

**E.** Award criteria shall provide that:

- (1) preference in making awards shall be to applicants who:
  - (a) have graduated from the university of New Mexico law school;
  - (b) have the greatest financial need based on legal education indebtedness and salary;
  - (c) work in public service employment that has the lowest salaries; and
  - (d) work in public service employment in underserved areas of New Mexico that are in greatest need of attorneys practicing in public service employment;
- (2) an applicant's employment as an attorney in public service employment prior to participation in the public service law loan repayment program shall not count as time spent toward the minimum three-year period of service requirement pursuant to the contract between the participating attorney and the department acting on behalf of the state;
- (3) award amounts are dependent upon the applicant's total legal education debt, salary and other sources of income, other than income from military service, deemed by the department as appropriate for consideration;
- (4) award amounts may be modified based upon available funding or other special circumstances;
- (5) an award shall not exceed the total legal education debt of any participant; and
- (6) award amounts shall be reduced by the sum of the total award amounts received by the participant from other legal education loan repayments programs.

**F.** The following legal education debts are not eligible for repayment pursuant to the [Public Service Law Repayment Program] public service law loan repayment program:

- (1) amounts incurred as a result of participation in state or law school loan-for-service programs or other state or law school programs whose purposes state that service be provided in exchange for financial assistance;
- (2) scholarships that have a service component or obligation;
- (3) personal loans from relatives or friends; and
- (4) loans that exceed individual standard school expense levels;
- (5) an award determination may be appealed to the secretary of higher education.

[5.7.31.9 NMAC - N, 12/31/2007; A, 5/30/2008; A, 10/31/2013; **A, 7/24/2018**]

#### **5.7.31.10 LOAN REPAYMENT CONTRACT TERMS**

**A.** The loan repayment award shall be evidenced by a contract between the participating attorney and the department acting on behalf of the state. The contract shall state the amount of the award and the obligations of the participating attorney under the public service law loan repayment program, including a minimum three-year period of service, quarterly reporting requirements and other policies established by the department.

**B.** A participating attorney shall serve a complete year in order to receive credit for that year. The credit for a year shall be established by the department but shall not exceed seven thousand two hundred dollars (\$7,200).

- (1) Payments are made quarterly during each year of service.

(2) The advisory committee will conduct an annual review of eligibility for every participant. If participant becomes ineligible, future payments may be terminated.

(3) Once a full year (12 months) of service is completed, no penalty which might thereafter be imposed would be assessed with respect to the credit amount satisfied by that year of completed service.

(4) Once two years of service is completed, no penalty which might thereafter be imposed would be assessed with respect to the credit amounts satisfied by those two years of completed service.

C. If a participating attorney does not comply with the terms of the contract, the department shall require immediate repayment of the award plus eighteen percent interest and may assess a penalty of up to three times the amount of award disbursed, unless the department finds acceptable extenuating circumstances for why the participating attorney cannot serve or comply with the terms of the contract. If the department does not find acceptable extenuating circumstances for the participating attorney's failure to comply with the contract, the department shall require immediate repayment of the award plus the amount of the penalty.

D. The department, in consultation with the committee, shall adopt rules to implement the provisions of this section.

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

#### **5.7.31.11 CONTRACTS AND ENFORCEMENT**

A. The general form of the contract required shall be prepared and approved by the attorney general and the department of finance and administration and signed by the participating attorney and by the cabinet secretary of the department or the cabinet secretary's designated representative on behalf of the state.

B. The department is vested with full and complete authority and power to sue in its own name for any balance due the state from any attorney on any such contract.

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

#### **5.7.31.12 PUBLIC SERVICE LAW ADVISORY COMMITTEE**

A. The "public service law advisory committee" is created to advise the department on matters relating to the administration of the public service loan repayment program.

B. The committee is composed of:

(1) the dean of the university of New Mexico law school or the dean's designee;

(2) the executive director of New Mexico legal aid or the director's designee who shall be an attorney employed with an organization that is exempt from taxation pursuant to Section 501 (c) (3) of Title 26 of the United States Code and that provides civil legal services to indigent persons in New Mexico;

(3) the chief public defender of the chief's designee;

(4) a district attorney appointed by the New Mexico district attorney's association; and

(5) a financial aid or career services officer of the university of New Mexico law school designated by the dean.

C. The committee shall:

(1) make recommendations to the department on applicants for the public service law loan repayment program;

(2) advise the department on the adoption of rules to implement the provisions of the public service law loan repayment program; and

(3) give advice or other assistance to the department as requested.

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

**5.7.31.13 CANCELLATION:** The department may cancel any contract made between it and any participating attorney for any reasonable cause deemed sufficient by the department.

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

**5.7.31.14 REPORTS:** The department shall make an annual report to the governor and the legislature, prior to each regular session, of its activities, including the loan repayment awards granted, the names and addresses of participating attorneys and their employers who are in public service employment pursuant to the public service law loan repayment program and the names of participating attorneys who are not employed in public service employment, the reason they are not employed in public service employment and the amounts owed and paid on loans and loan repayment awards.

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

DRAFT