

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 5 POST-SECONDARY EDUCATIONAL PROGRAMS
PART 52 DEVELOPMENT PRE-EMPLOYMENT TRAINING FOR FILM AND MULTIMEDIA PRODUCTION COMPANIES

5.5.52.1 ISSUING AGENCY: New Mexico Economic Development Department
[5.5.52.1 NMAC - Rp, 5.5.52.1 NMAC, 4-30-2009]

5.5.52.2 SCOPE: New Mexico residents pursuing film and multimedia professions.
[5.5.52.2 NMAC - Rp, 5.5.52.2 NMAC, 4-30-2009]

5.5.52.3 STATUTORY AUTHORITY: Section 21-19-7.1.B NMSA 1978, established in 2003, directs the New Mexico film division of the economic development department to establish a film and multimedia pre-employment training program to furnish qualified manpower resources for the film and multimedia industry. The New Mexico film division has adopted rules implementing the pre-employment training program.
[5.5.52.3 NMAC - Rp, 5.5.52.3 NMAC, 4-30-2009]

5.5.52.4 DURATION: Permanent.
[5.5.52.4 NMAC - Rp, 5.5.52.4 NMAC, 4-30-2009]

5.5.52.5 EFFECTIVE DATE: April 30, 2009, unless a later date is cited at the end of a section.
[5.5.52.5 NMAC - Rp, 5.5.52.5 NMAC, 4-30-2009]

5.5.52.6 OBJECTIVE: The object of this rule is to establish standards for pre-employment development training for New Mexican residents through the job training incentive program (JTIP) for film and multimedia production companies. Pre-employment training program (PETP) is intended to furnish qualified manpower resources for the film and multimedia industry. The intention of PETP **class training** is to assist the development of New Mexico's economy by providing reimbursement funds to contractors facilitating short-term intensive courses, workshops or lectures that primarily relate to below-the-line film and television job positions. The intention of PETP **project training** is to assist the development of New Mexico's economy by providing reimbursement funds to contractors directly related to a production company's project for training in and exposure to primarily above-the-line film and television job positions. This program shall increase the hirability of New Mexico crew on film and television projects, increase economic status upon employment, and increase crew availability to productions. The PETP shall pertain to industry and production needs as determined by the New Mexico film division.
[5.5.52.6 NMAC - Rp, 5.5.52.6 NMAC, 4-30-2009]

5.5.52.7 DEFINITIONS: For use in this part, the following definitions apply.

- A. "Above-the-line"** is a film and television industry term derived from where the money is budgeted for creative talent, writers, directors and producers. This term means job positions that are associated with the creative or financial control of a film or multimedia project, generally not the technical aspects.
- B. "Below-the-line"** is a film and television industry term derived from where the money is budgeted for technical crew that shall work on a film or multimedia project as well as for costs related to the studio, equipment, travel, and location. In regards to job positions, this term means technical crew working in temporary positions and these individuals do not have creative or financial control of the project nor receive residuals.
- C. "Craft"** means the specialized area or department in which a film technician works.
- D. "Credit"** means the employee hired by a production company is officially acknowledged by name by the company either on a final list of employees (crew list) or on the actual screen as having worked in the hired position on their film or multimedia project.
- E. "Film technician"** means a crew member working in a below-the-line job position who often is a member of an international alliance of theater and stage employee (IATSE) film union or guild.
- F. "Hands-on classes"** mean classes where materials, tools or chemicals are utilized by participants.
- G. "JTIP"** means job training incentive program.
- H. "PETP"** means pre-employment training program.
- I. "Production company"** means the entity creating a film or television project, which includes film or multimedia project preparation, principal photography and set break down periods.

J. “Resident” means an individual who is domiciled in New Mexico. This domicile is the individual's permanent home; it is a place to which the individual intends to return after any temporary absence. An individual shall have only one domicile. A change in domicile is established only by establishing a physical presence in a new location with intent to abandon the old domicile and make a home in the new location permanently or indefinitely.

K. “Trainee” means the class, course, workshop, lecture or project attendee participating in this program and who will be learning a new skill set or graduating to a higher job classification.

L. “Turn-around-time” means the time between leaving a project and returning to a project to continue training.

[5.5.52.7 NMAC - Rp, 5.5.52.7 NMAC, 4-30-2009]

5.5.52.8 PRE-EMPLOYMENT CLASS TRAINING PROGRAM OUTLINE:

A. The New Mexico film division of the economic development department shall contract a qualified contractor to provide venues, staff, equipment and materials to conduct short-term, intensive training New Mexicans in primarily below-the-line film and television crafts and that shall increase the employment opportunities of New Mexican crew on film and television projects.

B. Mandatory or regulatory training is allowed if required for employment on a film and approved by the New Mexico film division of the economic development department.

C. Total course cost shall not exceed twenty thousand dollars (\$20,000.00) regardless of the number of contractors.

D. The potential contractor shall provide a proposal and application to the New Mexico film division and the documents noted within to be considered for the training reimbursement.

E. Approved contractor shall enter into an agreement as outlined by the New Mexico economic development department.

F. The approval from the New Mexico film division and the chairperson of the job training incentive program (JTIP) board shall grant funding to the contractor for the purpose of conducting this training.

G. The term of the contract shall be based on a time period, which shall allow the contractor to complete its obligation to facilitate and provide training classes for the qualified individuals and complete the paper-work involved.

H. Contractor shall ensure that all trainees are pursuing work in or are currently working in the film and television industry and shall either be training in a new classification or are in need of additional training in this classification.

I. Contractor shall ensure all trainees are New Mexico residents.

J. Contractor shall ensure all trainees are at least 18 years of age for all “hands-on” classes and must be accompanied by an adult if under the age of 18 years for lectures.

K. Contractor shall qualify registrants per the PETP class trainee certification form which is based on class pre-requisites and specific industry experience.

L. Contractors may require trainees to pay a nominal fee per the approval of the New Mexico film division.

M. All instructors and facilitators shall be certified as such by the New Mexico film division.

N. The contractor is subject to compliance visits and program surveys at any time during the training class.

O. The contractors that fail to comply with all established operating requirements and closeout procedures are not eligible to apply for future participation.

P. Eligible costs for reimbursement per PETP class application:

(1) tuition and registration fees; and

(2) certification and licensing fees for trainees when applicable; and

(3) instructional literature; and

(4) expendable supplies; and

(5) instructor and facilitator fees where these individuals are not employee of the contractor's

business; and

(6) additional insurance if required and when approved by department's legal counsel; and

(7) facility rental; and

(8) equipment rental; and

(9) approved travel expenses which is based on department of finance administration rule 2.42.2

NMAC, Regulations Governing Per Diem and Mileage Act.

Q. Reimbursement of training costs: Reimbursement amount shall be made to the participating contractor in accordance with the terms of the training contract. Funds from the state shall be based on the negotiated contractual agreement as outlined in the contract.

R. Reporting: The following established documentation may be required by the New Mexico film division and is subject to review during compliance visits and program surveys:

- (1) original class proposal and documents noted within; and
- (2) applicable insurance certificate(s); and
- (3) New Mexico tax information form or current state vendor number; and
- (4) PETP class film and multimedia pre-employment training application and supporting documents noted within; and
- (5) PETP class film and multimedia pre-employment agreement; and
- (6) PETP trainee forms; and
- (7) PETP instructor and facilitator forms; and
- (8) receipts per approved expenditures in application; and
- (9) roster of trainees; and
- (10) class evaluation forms; and
- (11) invoice.

S. The mailing address to submit paperwork including the invoice is to the development training program administrator, New Mexico film division of the economic development department, 418 Montezuma Avenue, Santa Fe, New Mexico, 87501, 505-476-5600.
[5.5.52.8 NMAC - Rp, 5.5.52.8 NMAC, 4-30-2009]

5.5.52.9 PRE-EMPLOYMENT PROJECT TRAINING:

A. Project training shall assist the development of New Mexico's economy by providing reimbursement funds to contractors directly related to a production company's project for training in and exposure to primarily above-the-line film and television job positions. This program shall increase the hirability of New Mexico crew on film and television projects, increase economic status upon employment, and increase crew availability to productions. Pre-employment project training shall pertain to industry and production needs as determined by the New Mexico film division of the economic development department.

B. Production company qualifications and requirements:

(1) The production company shall provide an outline of each training concept with the NMFO proposal form to be considered for approval.

(2) The production company shall be required to provide qualifications of instructors and mentors, all relevant details, certificates and costs per the program application; and upon approval of the New Mexico film division shall enter into the film and multimedia pre-employment project training agreement as outlined by the New Mexico film division of the economic development department; and the approval from the New Mexico film division shall grant training funds to the production company for the purpose of conducting this training.

(3) The production company entering into a contractual agreement with New Mexico economic development department shall return the contractual agreement to the department within 15 business days from the issue date or commencement of project whichever date comes first.

(4) The production company shall interview and consider trainees endorsed by the New Mexico above-the-line mentorship panel (NM AMP) for this training.

(5) The production company ensures that all trainees are New Mexico residents.

(6) The production company ensures that all trainees shall receive specialized training to work in the film industry.

(7) The production company shall not have more than two trainees per mentor or instructor.

(8) The production company shall ensure each trainee completes project trainee certification form.

(9) The production company shall ensure the trainee shall be covered under their production insurance.

(10) The production company is subject to compliance visits and program surveys at any time during the training.

(11) Breaks and meals per film industry standards shall apply to participants training on production project.

(12) A minimum turn-around-time of eight hours shall apply to all training participants.

C. The production company that fail to comply with all established operating requirements and close-out procedures are not eligible to apply for future participation and may not receive the training reimbursement.

- D.** Instructors and mentor qualifications shall be certified as such by the New Mexico film division.
- E.** A maximum of 60 days on a given production company's project per trainee; however, exceptions may be made by the director of the New Mexico film division when a request is submitted in writing to this director.
- F.** Funds shall not be used to purchase equipment, software, non-expendable supplies.
- G.** Total training cost shall equate to twenty-five percent (25%) of daily compensation for director, producer and writer mentors and fifty percent (50%) of daily compensation for mentors in specialized crafts including but not limited to production designer, sound looping, editor, script supervisor, unit production manager, production supervisor, casting director, and story board artist.
- H.** Mandatory or regulatory training is allowed if required for employment on a film and approved by the New Mexico film division of economic development department.
- I.** The term of the contract shall be based on a time period, which shall allow the production company to complete its obligation to facilitate and provide training classes for the qualified individuals and complete the paper-work involved.
- J.** Reimbursement of training costs shall be made to the participating production company in accordance with the terms of the contract which is based upon the costs to facilitate training.
- K.** The rate established in the contract shall remain the same for the length of the agreement.
- L.** The invoice shall include all costs accepted and stated in the application and contract.
- M.** The mailing address to submit the invoice and all required information is development training program administrator of the New Mexico film division of the economic development department, 418 Montezuma Avenue, Santa Fe, New Mexico, 87501, 505-476-5600.
- N. Reporting:** The following established documentation may be required by the New Mexico film division and is subject to review during compliance visits and program surveys:
- (1) PETP project proposal; and
 - (2) New Mexico tax information form; and
 - (3) film and multimedia pre-employment project training application and supporting documents noted within; and
 - (4) film and multimedia pre-employment project agreement; and
 - (5) project trainee certification form for each trainee and supporting documentation noted within; and
 - (6) copy of production insurance; and
 - (7) final roster of trainees that have completed the training with individual's contact information; and
 - (8) call sheet or equivalent documentation as determined by the New Mexico film division for each day of training; and
 - (9) time cards or equivalent documentation as determined by the New Mexico film; and
 - (10) evaluation forms; and
 - (11) invoice.
- O.** All records shall be submitted to the New Mexico film division of the economic development department and they are subject to review during compliance visits and program surveys.
[5.5.52.9 NMAC - Rp, 5.5.52.9 NMAC, 4-30-2009]

5.5.52.10 OTHER PROGRAM INFORMATION:

- A.** The pre-employment training program through the job training incentive program for film and multimedia was created by the New Mexico film division of the economic development department of state of New Mexico.
- B.** Public or private entities outside the state of New Mexico shall contact the New Mexico film division of the economic development department for consideration to obtain permission to use any part of this program content at 505-476-5600.
[5.5.52.10 NMAC - Rp, 5.5.52.10 NMAC, 4-30-2009]

HISTORY OF 5.5.52 NMAC:

History of Repealed Material: 5.5.52 NMAC, Development Pre-Employment Training for Film and Multimedia Production Companies, filed 5-28-2008 is repealed effective 4-30-2009 and replaced by 5.5.52 NMAC, Development Pre-Employment Training for Film and Multimedia Production Companies, effective 4-30-2009.