

TITLE 2 PUBLIC FINANCE
CHAPTER 110 LOCAL GOVERNMENT GRANTS
PART 5 JUVENILE ADJUDICATION FUND GRANTS TO LOCAL GOVERNMENTS

2.110.5.1 ISSUING AGENCY: Department of Finance and Administration.
[2.110.5.1 NMAC - N, 7/1/2011]

2.110.5.2 SCOPE: All county and municipal governments.
[2.110.5.2 NMAC - N, 7/1/2011]

2.110.5.3 STATUTORY AUTHORITY: Section 34-16-1 NMSA 1978. Section 9-6-5(E) NMSA 1978.
[2.110.5.3 NMAC - N, 7/1/2011]

2.110.5.4 DURATION: Permanent.
[2.110.5.4 NMAC - N, 7/1/2011]

2.110.5.5 EFFECTIVE DATE: July 1, 2011, unless a later date is cited at the end of a section.
[2.110.5.5 NMAC - N, 7/1/2011]

2.110.5.6 OBJECTIVE:

A. In 2009, the New Mexico legislature enacted Laws of 2009, Chapter 244, which created the juvenile adjudication fund and was compiled as Section 34-16-1 NMSA 1978. Money in the juvenile adjudication fund is appropriated to DFA to administer the fund and to provide an alternative adjudication process for juveniles charged with traffic offenses and other misdemeanors.

B. The objective of 2.110.5 NMAC is to establish a juvenile adjudication fund grant program to fund programs providing alternative procedures of adjudication for juveniles charged with traffic offenses and other misdemeanors.

[2.110.5.6 NMAC - N, 7/1/2011]

2.110.5.7 DEFINITIONS:

A. **“Applicant”** means a county, municipality, or combination of two or more counties or municipalities that submits an application for a grant.

B. **“Alternative adjudication program”** means a program providing alternative procedures of adjudication for juveniles charged with traffic offenses and other misdemeanors. Teen courts are a type of alternative adjudication program.

C. **“Cash transfer”** means the transfer of funds by a grantee from an established, separate grant fund to other fund(s) in the grantee’s budget.

D. **“Charged”** means accused of traffic offenses or other misdemeanors. It is not necessary for formal criminal proceedings to be initiated through issuance of a citation or otherwise for a juvenile to be charged for purposes of this rule.

E. **“Components”** means programs that are designed to address one or more specific traffic or other misdemeanor offenses or their underlying causes, including, but not limited to, programs addressing:

- (1) substance abuse prevention;
- (2) shoplifting;
- (3) DWI;
- (4) truancy;
- (5) anger management;
- (6) drivers education;
- (7) counseling;
- (8) team building;
- (9) smoking cessation;
- (10) tutoring;
- (11) peer counseling;
- (12) parental involvement; and
- (13) teen parenting.

F. **“DFA”** means the department of finance and administration.

- G. **“Division”** means DFA’s local government division.
 - H. **“Grant”** means the award of funds from the juvenile adjudication fund to a grantee to assist an alternative adjudication program.
 - I. **“Grantee”** means a county, municipality, or combination of two or more counties or municipalities receiving a grant.
 - J. **“Grant funds”** means the funds awarded from the juvenile adjudication fund pursuant to a grant.
 - K. **“Grant program”** means the program established by this rule to make grants from the juvenile adjudication fund.
 - L. **“JPO”** means juvenile probation officer.
 - M. **“Juvenile adjudication fund”** means the fund created by Section 34-16-1 NMSA 1978.
 - N. **“Program guidelines”** means guidelines for the operation of alternative adjudication programs established and revised by the division from time to time.
 - O. **“Supplantation”** means the replacement or substitution of existing funding with grant funds.
- [2.110.5.7 NMAC - N, 7/1/2011]

2.110.5.8 ADMINISTRATIVE REQUIREMENTS:

- A. Grantees must comply with the program guidelines, all applicable laws and regulations, as well as requirements and procedures established in the grant agreement between the division and the grantee.
 - B. Grantees must establish a separate fund in their budget and accounting system to account for grant funds. This fund must be included in the grantee's budget process and financial reports.
 - C. Grantees must have financial management systems that meet the standards set forth in this subsection.
 - (1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant agreement.
 - (2) Accounting records. Grantees must maintain records that adequately identify the source and application of funds provided for alternative adjudication programs. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
 - (3) Internal control. Effective control and accountability must be maintained for all grant funds and items purchased with grant funds. Grantees must adequately safeguard all such funds and items and must assure that they are used solely for authorized purposes.
 - (4) Budget control. Grantees must have adequate systems to ensure actual expenditures or outlays do not exceed budgeted amounts for each grant.
 - (5) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc. The division may review the adequacy of the financial management system of any applicant or grantee as part of a preaward review or at any time after grant award.
- [2.110.5.8 NMAC - N, 7/1/2011]

2.110.5.9 ELIGIBLE APPLICANTS:

- A. Counties and incorporated municipalities in New Mexico are eligible to apply for grants. Two or more counties or municipalities may jointly apply for a grant, provided that the joint applicants must be within reasonable geographic proximity to each other and one applicant must be identified through joint resolution of the governing bodies of the applicants to be the lead applicant, responsible to the division for the administration of the grant.
 - B. Pueblo and tribal governments and non-profit organizations are not eligible to apply directly for grants. These organizations may receive funds from grantees as subgrantees, in the case of pueblo or tribal governments, or service providers, in the case of pueblo or tribal governments and non-profit organizations.
- [2.110.5.9 NMAC - N, 7/1/2011]

2.110.5.10 ELIGIBILITY REQUIREMENTS:

- A. The threshold eligibility requirements set forth in this subsection must be met for an applicant to be considered for a grant.
 - (1) The head of the local JPO office responsible for the geographic area in which the alternative adjudication program covered in the application is located must submit a letter indicating the intent of the JPOs in

that office to refer juveniles to the alternative adjudication program during the period covered by the requested grant.

(2) The alternative adjudication program covered by the application must have a qualified program coordinator in place responsible for the overall management of the alternative adjudication program. The applicant must identify the coordinator and explain the coordinator's qualifications in the application.

(3) The applicant must have completed all audits required under the Audit Act, have a budget approved by the division pursuant to the Chapter 6, Article 6 NMSA 1978, and be current on all financial reports required to be submitted to the division under that article.

(4) A minimum of 10 percent of the proposed operating budget of the alternative adjudication program to be assisted with grant funds must come from sources other than grant funds or other state funds. Cash valued in-kind contributions may be used to meet this matching requirement; provided, however, that, in the event the division disagrees with the grantee's valuation of in-kind contributions, the division's determination of the cash value of the in-kind contributions shall control for purposes of compliance with this matching requirement.

(5) Only alternative adjudication programs are eligible to be assisted with grant funds.

B. If the alternative adjudication program covered by the application has been in operation less than two consecutive years, the additional threshold eligibility requirements in this subsection must also be met for an applicant to be considered for a grant; provided, however, that the division may waive the additional requirements in this subsection if the applicant demonstrates and the division determines in writing that good cause exists to believe that the alternative adjudication program covered by the application will satisfactorily operate without a mentorship relationship with an established alternative adjudication program.

(1) The alternative adjudication program must have a mentorship relationship with an alternative adjudication program that has been operational for more than two consecutive years. Documentation of that mentorship relationship must be submitted with the application.

(2) The mentor alternative adjudication program must submit a letter supporting the application for grant assistance for the alternative adjudication program that has been in operation less than two consecutive years. [2.110.5.10 NMAC - N, 7/1/2011]

2.110.5.11 ELIGIBLE EXPENDITURES:

A. In accordance with the budget established pursuant to Subsection B of this section, grant funds may be spent on the following expenditures in support of the alternative adjudication program financially assisted by a grant:

(1) reasonable amounts of supplies and program materials that are directly related to the alternative adjudication program and will be consumed during the grant period;

(2) reasonable training expenditures for employees or volunteers providing direct services to the alternative adjudication program;

(3) travel for juvenile participants in and personnel and contractors of alternative adjudication programs, in accordance with and subject to the limitations provided in the Per Diem and Mileage Act and implementing regulations;

(4) the portion of employee salaries and benefits of personnel employed by an alternative adjudication program and county and municipal employees who provide direct services for the alternative adjudication program;

(5) indirect costs, such as overhead, salaries and benefits for support staff, equipment costs, administrative expenses, supplies, and other expenses incurred by the grantee that are not direct costs of the alternative adjudication program, not to exceed 5% of the total grant funds; and

(6) contracts for services that directly support the alternative adjudication program.

B. Grantees shall develop and the division shall approve a budget for grant funds in such detail and such format as the division shall from time to time prescribe. All expenditures must be in accordance with the approved budget. The budget may only be amended as provided in the grant agreement.

[2.110.5.11 NMAC - N, 7/1/2011]

2.110.5.12 INELIGIBLE EXPENDITURES: Grant funds cannot be used for:

A. capital outlay expenditures, including, but not limited to, the lease or purchase of land, buildings, facilities, furnishings, or equipment;

B. the purchase of food or beverages;

C. supplantation;

D. cash transfers; or

E. licensing, professional membership, or organizational fees or dues.
[2.110.5.12 NMAC - N, 7/1/2011]

2.110.5.13 APPLICATION PROCEDURES, FORM AND CONTENT:

- A. For each application cycle, the division shall determine:
- (1) the amount available for grants;
 - (2) the limit (if any) that any single grantee may be awarded;
 - (3) the grant period during which grant funds may be expended;
 - (4) the form and content of applications;
 - (5) the application deadline;
 - (6) the specific evaluation criteria to be used to evaluate and rate applications; and
 - (7) the form of the grant agreement.
- B. Two copies of the application for grant funds, one of which has original signatures, must be submitted to: Department of Finance and Administration Local Government Division, Bataan Memorial Building, Suite 201, Santa Fe, New Mexico 87501, Phone: (505) 827-4950.
- C. Applications must be received at the local government division by 4:00 p.m. of the designated application deadline.
- D. In the event that the application is incomplete or requires modification, the applicant will be promptly notified by the division. The applicant must then immediately submit the information and modification requested. Applicants that do not respond in writing may be disqualified.
- E. The applicant's governing body must authorize by resolution the applicant to submit the application. A copy of the resolution must be included with the application.
[2.110.5.13 NMAC - N, 7/1/2011]

2.110.5.14 APPLICATION REVIEW, RATING AND SELECTION:

- A. The evaluation criteria for applications shall be developed for each application cycle and shall include, but not be limited to, the following:
- (1) overall quality of the alternative adjudication program for which grant funds are sought and proposal approach;
 - (2) financial need of the alternative adjudication program and estimated impact of grant funds (e.g., grant funds would allow alternative adjudication program to remain operational; grant funds would allow the alternative adjudication program to serve more clients; or grant funds would allow alternative adjudication program to provide a higher level of service to clients);
 - (3) number of clients to be served;
 - (4) number and quality of components to be provided to clients;
 - (5) past performance of the alternative adjudication program (except for new programs);
 - (6) expenditure rates and performance of any current or past grant(s); and
 - (7) whether the alternative adjudication program will receive direct legislative appropriations during the grant period, in which case the amount of grant funds that the grantee would otherwise be awarded will be reduced by the amount of such direct legislative appropriations for the alternative adjudication program.
- B. Evaluators selected by the division shall evaluate all applications for eligibility and completeness. Complete applications that meet all threshold eligibility requirements shall be evaluated and rated based upon the evaluation criteria established in the application. Funding recommendations will be made to the division director based upon those ratings.
- C. At any time during the application process, the division may request, and applicants shall provide, any additional information and documentation that the division feels is necessary to evaluate the application.
- D. Division staff may consult appropriate non-staff experts for information and advice concerning technical aspects of any application.
- E. The division director shall review staff ratings and recommendations and make grant program award decisions. The amount of the grant award may be less than the amount requested in the application.
- F. The division will enter into grant agreements with grantees. The grant period will ordinarily be for a single fiscal year; provided, however, that the division may, in its discretion, provide a longer or shorter grant period.
[2.110.5.14 NMAC - N, 7/1/2011]

2.110.5.15 REVERSIONS AND SUPPLEMENTAL FUNDING:

A. Reversions. If, at the end of the grant period set forth in the grant agreement, an unexpended balance of funds remains, the unexpended balance shall revert to the juvenile adjudication fund.

B. Reversions/supplemental funding. When funds are reverted as provided in Subsection A of this section, or additional funds are made available due to any other cause, the division may take one or more of the following actions:

- (1) set aside the funds for contingencies or emergencies;
- (2) make the funds available for grants during the next regular application cycle; or
- (3) make the funds available through a special application cycle.

[2.110.5.15 NMAC - N, 7/1/2011]

2.110.5.16 REPORTING REQUIREMENTS:

A. Grantees shall submit a quarterly report to the division on October 15, January 15, April 15, and July 10.

B. The division shall prescribe the format and content of quarterly reports, which shall include, but not be limited to, the following:

- (1) fiscal reporting on the expenditure of grant funds and match expenditures; and
- (2) program reporting, including, but not limited to, the number of clients served; the gender, age, grade, and ethnicity of clients; the type of offense; the number of components provided to clients; and the number of open, pending and closed cases.

[2.110.5.16 NMAC - N, 7/1/2011]

2.110.5.17 EVALUATION:

A. The division may conduct periodic evaluations of grantees and alternative adjudication programs receiving grant funds to determine compliance with applicable law and regulations, the grant agreement, and the program guidelines.

B. Grantees must cooperate fully with such evaluations, including, but not limited to, by making all financial and program records available for inspection and making personnel available for interview.

[2.110.5.17 NMAC - N, 7/1/2011]

2.110.5.18 SANCTIONS:

A. The division may impose sanctions on a grantee based upon one or more of the following grounds:
(1) improper or inadequate performance, including, but not limited to, the failure to implement grant activities in a timely fashion or in accordance with the grant agreement or conduct the alternative adjudication program in accordance with the program guidelines;

- (2) fraud, abuse, misconduct, or misuse of grant funds;
- (3) failure to correct monitoring or audit findings;
- (4) failure to document and report to the division all grant expenditures;
- (5) lack of continuing capacity to successfully administer the alternative adjudication program;
- (6) implementation of an alternative adjudication program or budget change without prior division approval;

- (7) non-compliance with one or more condition(s) of the grant agreement;
- (8) criminal conduct involving the alternative adjudication program; or
- (9) violation of applicable laws or regulations.

B. The sanctions set forth in this subsection are the types of permissible sanctions that may be imposed upon a grantee. More than one sanction may be imposed for the same ground(s) giving rise to the sanction. The sanction or sanctions imposed will be based upon the underlying ground(s) for the sanction(s), past performance of and sanctions imposed upon the grantee, and the importance of the state interest implicated by the ground(s) for the sanction(s).

- (1) Disallowance of expenditures. A grantee may not be reimbursed for expenditures.
- (2) Withholding reimbursement. The division director may temporarily withhold payment, or disallow further draw-downs.
- (3) Suspension. The division director may suspend the grant agreement. The grantee shall not be reimbursed for expenditures incurred during the period of the suspension unless the division director subsequently authorizes such reimbursement in writing.

(4) Repayment to the juvenile adjudication fund of amounts previously paid by the division to the grantee.

- (5) Termination of the grant agreement.
- (6) Disqualification from receiving future grants.

C. Before imposing any sanctions on a grantee, the division director shall give the grantee written notice of the proposed sanction and the grounds for the proposed sanction. The grantee shall be provided a reasonable opportunity to present facts and arguments challenging the appropriateness of the proposed sanction and the grounds upon which it is based. The division director shall issue a final decision after duly considering the grantee's facts and arguments or after the time for presenting them has passed.

[2.110.5.18 NMAC - N, 7/1/2011]

HISTORY OF 2.110.5 NMAC: [RESERVED]