

New Mexico

Are mandatory arbitration provisions recognized in your state? If so, are there any limitations to its enforcement?

Yes, New Mexico generally recognizes mandatory arbitration, as arbitration is strongly favor under New Mexico law. In fact, a court must enforce a valid arbitration agreement unless it is revocable or invalid under established principles of contract law.ⁱ Generally, “[t]he court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.”ⁱⁱ

In addition to the requirement there is evidence supporting an offer, acceptance, consideration, and mutual assent, such agreements shall not be substantively unconscionable. There is a two-step analysis to evaluate substantive unconscionability.ⁱⁱⁱ First, the court should look to the face of the arbitration agreement to determine the legality and fairness of the contract terms themselves. And second, if the court determines the arbitration agreement is facially one-sided, the court should allow the drafting party to present evidence that justifies the agreement is fair and reasonable, such that enforcement of the agreement would not be substantially unconscionable.^{iv}

What is your state’s law, if any, regarding gift cards, subscription services and loyalty programs?

New Mexico does not have any law (court opinions, statutes or regulations) concerning gift cards, subscription services and loyalty programs.

ⁱ *Strausberg v. Laurel Healthcare Providers, LLC*, 2013-NMSC-032, ¶ 49, 304 P.3d 409.

ⁱⁱ NMSA 1978, § 44-7A-7(b) (2001).

ⁱⁱⁱ *Gomez v. Hobbs Operating Co., LLC*, No. A-1-CA-38547, 2020 WL 6044151, (N.M. Ct. App. Oct. 1, 2020) (quoting *Peavy v. Skilled Healthcare Group et. al.*, 2020-NMSC-010, ¶ 10).

^{iv} *Id.*