

Academic Competitiveness Grants Negotiated Rulemaking

Rigorous Secondary School Programs of Study

Background

For the first two years of the program, there are four options available to all students:

1. Advanced or Honors diplomas;
2. State Scholars;
3. Coursework requirements similar to State Scholars; or
4. Any secondary school program for a student who completes at least two International Baccalaureate (IB) courses and receives a score of “4” or higher on the examinations for at least two of those courses or any secondary school program for a student who completes at least two Advanced Placement (AP) courses and receives a score of “3” or higher on the AP program exam for at least two of those courses.

States proposed other options in addition to the four above. Approximately 40 states have additional options available to students. Institutions currently document that a student completed a rigorous secondary school program of study.

Options for students graduating through 2009

Option 1

No change – retain current options.

Option 2

Incorporate one change under the coursework requirements similar to State Scholars:

- Mathematics: Four years of mathematics including at least Algebra I plus two other classes at a level higher than Algebra I.

Options for students graduating in 2010 and beyond

Option 1

No change.

Option 2

Incorporate changes to the coursework requirements option:

- Mathematics: Four years of mathematics, including at least Algebra I plus three other classes at a level higher than Algebra I.
- Science: Three years of science, including at least two years of laboratory science courses from Biology, Chemistry, or Physics.
- Three years of Social Studies.

- Two years of one language other than English or one year of one language other than English plus one year of Social Studies, Humanities, Technology, Computer Science, or another foreign language.

In addition, the Advanced or Honors diplomas and State Scholars Initiative options would be removed from the current list of options on the premise that SEAs would propose these for recognition.

Option 3

For public school students, accept all options proposed by a State Education Agency (SEA) that meet the coursework requirements for admission to the State's most selective public four-year university. These would be the only options under which public school student could qualify. A default curriculum by which private, home-schooled, Department of Defense (DoD), and foreign high school students could qualify would be retained. In addition, private, DoD, and foreign high school students could still qualify under the AP/IB option.

Documentation of rigorous secondary school program of study alternatives

Option 1

Institutions would continue to document that a student completed a rigorous secondary school program of study.

Option 2

For public school students, Federal Student Aid (FSA) would send the names of Pell Grant-eligible students to the student's SEA. The SEA would certify that the student completed the recognized rigorous secondary school program of study and return such certification to FSA. Institutions would be notified by FSA of a student's eligibility for an ACG award.

In addition, for private, home-schooled, DoD, and foreign high school students, institutions would continue to document that a student completed a rigorous secondary school program of study under either the default curriculum option or the AP/IB option.

**Proposed Regulatory Language
Committee II - ACG/National SMART Grant
Issues**

Origin: ED

Issue: Mandatory participation

Regulatory Cite: §691.7(a) and (b)

Original Summary of Issue: An institution with eligible educational programs that participates in the Federal Pell Grant Program must participate in the ACG and National SMART Grant programs. This provision was adopted to ensure that eligible students would be able to receive grants by ensuring that institutions would participate in the ACG and National SMART Grant programs. Although, this policy is at variance with the general title IV requirements that generally allow institution flexibility in determining which title IV programs the institution may choose to participate, it also reflects the mandatory nature of the two new programs.

Summary of Change: There is no change. Although there was one concern with the additional administrative burden this requirement would place on institutions with a small population of eligible students, there was overwhelming support to maintain the current requirement that an institution that participates in the Federal Pell Grant Program must also participate in the ACG and National SMART Grant programs. This provision helps ensure that students with the most need receive additional Federal funding to offset the rising cost of higher education.

Change: None.

**Proposed Regulatory Language
Committee II - ACG/National SMART Grant
Issues**

Origin: ED

Issue: Eligibility of certificate programs for
ACG

Regulatory Cite: §691.2(d)

Original Summary of Issue: Section 401A(c)(3)(A) and 401A(c)(3)(B) of the HEA, requires that an eligible student be enrolled or accepted for enrollment in an undergraduate program at a two- or four-year degree-granting institution of higher education to be eligible for an ACG. Because the HEA requires a student to be enrolled or accepted for enrollment in a program of undergraduate education at a degree-granting institution of higher education, these programs appear to be intended to assist students in attaining a degree. Section 691.2(d) defines an eligible program in accordance with this understanding as not including certificate programs while including the following as eligible:

- ACG - a program leading to an associate's or bachelor's degree, a two-academic year program acceptable for full credit toward a bachelor's degree, or a graduate degree program that includes at least three academic years of undergraduate education.

- National SMART Grant Program - a program leading to a bachelor's degree in an eligible major or a graduate degree program in an eligible major that includes at least three academic years of undergraduate education.

Summary of Change: There is no change.

Some committee members wanted the definition of an eligible program modified to include certificate programs offered at two- or four-year degree-granting institutions of higher education. Many believed that the Secretary interpreted the law too narrowly by determining that only programs leading to a degree are considered eligible programs. Some believed the statute could also be interpreted to mean that eligible students enrolled or accepted for enrollment in

any undergraduate program at two- or four-year degree-granting institutions of higher education are eligible to receive an ACG.

If the definition of an eligible program is modified to include certificate programs, the increase in the number of potentially eligible students could have budgetary implications. Depending upon the availability of funds in an award year, the Secretary may be required to ratably reduce the ACG or National SMART Grant Scheduled Awards to ensure that all students who are eligible receive a grant.

Change: None.

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues**

Origin: ED

Issue: Requirement that Federal Pell Grants and ACG or National SMART Grants be disbursed at the same institution

Regulatory Cite: §691.11

Original Summary of Issue: Several requirements related to the administration of the Federal Pell Grant Program and the ACG and National SMART Grant programs appear to necessitate that the same institution disburse funds from these programs for the same payment periods. A student must receive a Federal Pell Grant disbursement in the same award year in which the student receives an ACG or National SMART Grant; an institution may pay only on the transaction that is the valid Student Aid Report or valid Institutional Student Information Record (ISIR) (and only the institution paying the Federal Pell Grant will know which ISIR is the valid one); and institutions must report verification records for the these three programs. Based on these factors, in the very limited circumstances in which different institutions would choose to administer and disburse funds from different title IV, HEA programs, §691.11 currently mandates that the institution that chooses to disburse Federal Pell Grant Program funds must also disburse the ACG and National SMART Grant funds. Is it feasible to allow more than one institution to disburse Federal Pell Grant and ACG or National SMART Grants for the same payment periods? What if the payment periods differ, e.g., a semester and a quarter?

Summary of Change: There is no change.

Since the administration of the ACG and National SMART Grant programs is inextricably linked to the Federal Pell Grant Program, it is logical to require the same institution that administers the Federal Pell Grant Program also to administer the ACG and National SMART Grant

programs in a consortium arrangement. The discussion among the negotiators supported the current regulatory language.

Changes: None.

Proposed Regulatory Language
Committee II –ACG/National SMART Grant
Issues

Origin: ED

Issue: Grade Point Average (GPA) - transfer students

Regulatory Cite: §691.15(b)(1), (c)(3), and (d)

Original Summary of Issue: In the case of a transfer student, for the first payment period, institutions must rely on the grades of the courses from the prior institution accepted toward the student's eligible program. Once a student has the grades for a payment period at the new institution for coursework taken toward the eligible program, the institution may use the GPA calculated from those grades only, unless there is an institutional policy that a student's GPA at the new institution include transfer grades. Should there be any changes in the treatment of a transfer student's GPA?

Summary of Change: Changes are being made to determining the GPAs of transfer students for both programs.

For each of the two programs, the community expressed the need for greater clarification of the GPA requirements for students who transfer. The existing regulatory language is not clear enough regarding the distinctions between the GPA requirements for a student who transfers with less than two academic years of completed coursework versus the student who transfers with at least two academic years of coursework. In addition, clarification was requested for what was meant by "or the equivalent" when discussing a GPA of at least 3.0 or higher on a 4.0 scale.

The proposed changes provide that, in the case of a transfer student, the GPA to qualify for a second-year ACG is the cumulative GPA at the end of the first academic year at the prior institution. In the case of a student who transfers with at least two academic years of completed coursework applicable to a degree program with a major

eligible for the National SMART Grant, the cumulative GPA is based on the GPA associated with coursework applicable to the student's SMART-eligible program. The proposed changes distinguish treatment of GPA for institutions that incorporate into the GPA the grades for transferred coursework along with the earned coursework at the institution to which the student transferred, versus institutions that do not incorporate transferred grades.

Change:

§691.15 Eligibility to receive a grant.

a) General. A student who meets the requirements of 34 CFR part 668, Subpart C, is eligible to receive an ACG or a National SMART Grant if the student--

- (1) Is a U.S. citizen;
- (2) Is receiving a Federal Pell Grant disbursement in the same award year; and
- (3) Is enrolled full-time.

(b) ACG Program. (1) A student is eligible to receive an ACG if the student--

(i) Meets the eligibility requirements in paragraph (a) of this section;

(ii) For the first academic year of his or her eligible program--

(A) Has successfully completed, after January 1, 2006, a rigorous secondary school program of study recognized by the Secretary under Sec. 691.16; and

(B) Has not previously been enrolled as a regular student in a program of undergraduate education;

(iii) For the second academic year of his or her eligible program-- (A) Has successfully completed, after January 1, 2005, a rigorous secondary school program of study recognized by the Secretary under Sec. 691.16; and

(B) Has successfully completed the first academic year of his or her eligible program; and

(C) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of at least 3.0 or higher on a 4.0 scale, or the equivalent numeric measure, consistent with other institutional measures for academic and title IV, HEA program purposes.

(D) For a transfer student who has completed the first

academic year upon transfer, the GPA to determine second-year eligibility for an ACG is the cumulative GPA obtained at the end of the first academic year at any prior institution.

(E) For a transfer student who has not completed the first academic year upon transfer, the GPA to determine second-year eligibility for an ACG is calculated when credits earned for coursework at prior institutions combined with credits earned by coursework completed at the current institution complete the student's first academic year.

(2)(i) An institution must document a student's completion of a rigorous secondary school program of study under paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section using--

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) If an institution has reason to believe that the documentation provided by the student under paragraph (b)(2)(i)(B) of this section is inaccurate or incomplete, the institution shall confirm the student's completion of a rigorous secondary school program of study by using documentation provided directly to the institution by the cognizant authority.

(3) For purposes of paragraph (b)(2) of this section--

(i) A cognizant authority includes, but is not limited to--

(A) An LEA;

(B) An SEA or other State agency;

(C) A public or private high school; or (D) A testing organization such as the College Board or State agency; or

(ii) For a home-schooled student, the student's parent or guardian is the cognizant authority for purposes of providing the documentation required under paragraph (b)(2)(i) of this section, of a rigorous secondary school program under Sec. 691.16(d)(2), including a transcript or the equivalent or a detailed course description listing the secondary school courses completed by the student.

(4) For a student who transfers from an eligible program at one institution to an eligible program at another institution, the institution to which the student transfers may rely upon the prior institution's determination that the student completed a rigorous secondary school program of study in accordance with paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section based on documentation that

the prior institution may provide, or based on documentation of the receipt of an ACG disbursement at the prior institution.

(c) National SMART Grant Program. A student is eligible to receive a National SMART Grant for the third or fourth academic year of his or her eligible program if the student'

(1) Meets the eligibility requirements in paragraph (a) of this section;

(2)(i)(A) In accordance with the institution's academic requirements, formally declares an eligible major; or

(B) If the institution's academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant on that basis--

(1) Demonstrates his or her intention to declare an eligible major as documented by the institution; and

(2) Formally declares an eligible major as soon as allowed under the institution's academic requirements; and (ii)

Enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the intended eligible major;

~~(3) Has a cumulative GPA through the most recently completed payment period of at least 3.0 or higher on a 4.0 scale, or the equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;~~

~~(4) For the third academic year, has successfully completed the second academic year of his or her eligible program; and~~

~~(5) For the fourth academic year, has successfully completed the third academic year of his or her eligible program.~~

(3) For the third academic year, has successfully completed the second academic year of his or her eligible program;

(4) For the fourth academic year, has successfully completed the third academic year of his or her eligible program;

(5) Has a cumulative GPA through the most recently completed payment period of at least 3.0 or higher on a 4.0 scale, or the equivalent numeric measure, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program; and

(6)(i) If a student transfers from one institution to a subsequent institution that --

(A) Does not incorporate grades from transfer coursework into the GPA for the earned coursework at the subsequent institution, the subsequent institution, for the courses accepted by that institution upon transfer-

(1) Must calculate the student's GPA for the first payment period of enrollment using the grades earned by the student in the coursework from any prior institution that it accepts towards the student's eligible program; and

(2) Must not incorporate the grades from the transferred courses into the GPA for the earned coursework at the subsequent institution; or

(B) Incorporates grades from the transferred coursework into the GPA for the earned coursework at the subsequent institution, the grades assigned to the coursework accepted by the subsequent institution into the eligible program shall be used as the student's cumulative GPA to determine eligibility for the first payment period of enrollment and beyond; or

(ii) If the institution accepts no credits toward the student's eligible program, consider the student to be ineligible until the student completes at least one payment period in an eligible program with a qualifying GPA.

~~(d) Transfer student's grade point average. Under the ACG and National SMART Grant programs, if a student transfers from another institution, the institution to which the student transfers--~~

~~(1) Must calculate the student's GPA for the student's first payment period of enrollment using the grades earned by the student in the coursework from any prior institution that it accepts towards the student's eligible program; or~~

~~(2) If the institution accepts no credits towards the student's eligible program, must consider the student to be ineligible until the student completes at least one payment period in an eligible program with a qualifying GPA.~~

(Authority: 20 U.S.C. 1070a-1)

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues**

Origin: ED

Issue: GPA - coursework

Regulatory Cite: §691.15(b)(1)(iii)(C), and (c)(3)

Original Summary of Issue: Section 401A(c)(3) of the HEA requires a student to meet the necessary GPA only at the end of the student's first academic year for an ACG, but throughout the student's third and fourth academic years for a National SMART Grant. Accordingly, under §691.15(b)(1)(iii), to receive a second-year ACG, the student must have at least a 3.0 GPA for the student's first title IV academic year of enrollment in an eligible program. Under §691.15 (c)(3), to receive a National SMART Grant, a student must maintain at least a 3.0 cumulative GPA through the most recently completed payment period in the coursework required for a student's eligible program.

The GPA is calculated based on the grades in the courses of the student's eligible program and in accordance with the same standards that are used to calculate GPA for other academic and title IV purposes at the institution. Should there be any changes in determining the coursework used to calculate a student's GPA that would comply with the statutory requirements?

Summary of Change: There is no change.

The GPA associated with eligible coursework is intended to cover any ACG-eligible program coursework for the ACG program and any coursework applicable to an eligible program leading to a degree in a SMART-eligible major for the National SMART Grant program. The community generally agreed that there was appropriate understanding of what coursework was applicable when determining eligibility for each of the programs.

Change: None

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues**

Origin: ED

Issue: GPA - timing of calculation

Regulatory Cite: §691.15(b)(1)(iii)(C), and (c)(3)

Original Summary of Issue: Section 401A(c)(3) of the HEA requires a student to meet the necessary GPA only at the end of the student's first academic year for an ACG, but throughout the student's third and fourth academic years for a National SMART Grant. Accordingly, under §691.15(b)(1)(iii), to receive a second-year ACG, the student must have at least a 3.0 GPA for the student's first title IV academic year of enrollment in an eligible program. Under §691.15 (c)(3), to receive a National SMART Grant, a student must maintain at least a 3.0 cumulative GPA through the most recently completed payment period in the coursework required for a student's eligible program. Should there be any changes in the time period for which a student's GPA is computed for a payment period that would comply with the statutory requirements?

Summary of Change: A technical change is being made to clarify that an equivalent GPA is a "numeric measure."

The community expressed concerns about the differences in timing of GPA calculations between the two programs and the strict term-by-term review of cumulative GPA for the National SMART Grants. In addition, clarification was requested for what was meant by "or the equivalent" when discussing a GPA of at least 3.0 or higher on a 4.0 scale.

Because the statutory language uses the following phrases, the community asked if a different interpretation of when the student is meeting the cumulative GPA threshold. For the ACG program, the statute states that the student must have "*obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first academic year of such program of undergraduate education*".

With the specific nature of the statutory wording, there can be no change in the ACG regulations for this topic.

For the National SMART Grant program, the statute states that the student must have "*obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major*". The community expressed the belief that there may be room to interpret an equivalency with satisfactory academic progress monitoring. After additional discussions, it was agreed that there would be no change to the regulatory language on this topic for National SMART Grants either, because in determining the eligibility for a payment period, which is how these grants are determined, the appropriate cumulative GPA must be obtained; the only way to ensure that is to check the cumulative GPA from the most recently completed payment period.

Change:

ACG:

(iii) For the second academic year of his or her eligible program—

(A) Has successfully completed, after January 1, 2005, a rigorous secondary school program of study recognized by the Secretary under § 691.16; and

(B) Has successfully completed the first academic year of his or her eligible program; and

(C) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of at least 3.0 or higher on a 4.0 scale, or the equivalent numeric measure, consistent with other institutional measures for academic and title IV, HEA program purposes.

National SMART Grant:

(3) Has a cumulative GPA through the most recently completed payment period of at least 3.0 or higher on a 4.0 scale, or the equivalent numeric measure, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues**

Origin: ED

Issue: GPA - eligibility for disbursement

Regulatory Cite: §691.75(b)(2) and (3), (c), and (d)

Original Summary of Issue: Section 691.75(b)(2) and (3), (c), and (d) specifies the requirements that govern an institution's determination of a student's eligibility for a disbursement of an ACG or National SMART Grant and are similar to those in §690.75 of the Federal Pell Grant Program to the extent practicable. Similar to the Federal Pell Grant Program requirements for determinations of a student's satisfactory academic progress, the regulations have provisions for the treatment of institutional determinations for a payment period regarding changes in a student's GPA to provide institutions the flexibility to reconsider a student's eligibility for an ACG or National SMART Grant payment during a payment period depending on when grades are earned or posted. Should there be any changes in determining a student's eligibility for a payment period with respect to GPA?

Summary of Change: There is no change.

The community agreed that the existing regulatory language provided appropriate flexibility for changes in GPA within a payment period.

Change: None.

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues**

Origin: ED

Issue: Academic year progression

Regulatory Cite: §668.2(b), §691.2, and §691.6

Original Summary of Issue: The HEA requires that a student's eligibility for an ACG or National SMART Grant is tied to the student's progression of title IV, HEA academic years during the student's undergraduate enrollment. Under the HEA, a student may be eligible for an ACG during the first and second title IV, HEA academic years of the student's undergraduate education and for a National SMART Grant during the third and fourth academic years of the student's undergraduate education. Using the title IV academic year requires institutions to determine the student's progression in both credit or clock hours and weeks of instructional time and differs from academic progression as used in the loan programs that rely on grade level and, thus, require only determinations regarding the student's standing in credit or clock hours. Many institutions are not prepared to track a student's progress in weeks of instructional time as well as credit or clock hours or across the student's years of attendance in undergraduate education. Are there additional changes possible to alleviate institutional burden?

Summary of Change: Changes are being made to reflect proposals discussed during negotiated rulemaking.

During the initial discussions at negotiated rulemaking, there was general agreement to revise §691.6 to provide alternative methods to determine a student's progression in title IV, HEA academic years during the student's enrollment in ACG and National SMART Grant eligible programs. Proposals discussed included allowing traditional academic calendar programs to count weeks based on the number of terms a student has attended, employing grade level in some manner, and continuing all of the guidance in the "Dear Colleague" letter GEN-06-18. There was general agreement to reaffirm the right of a student to an exact audit of the student's academic year standing

based on attendance in all ACG and National SMART Grant eligible programs.

Change:

§691.6 Duration of student eligibility—undergraduate course of study.

(a) A student is eligible to receive up to one ACG Scheduled Award during each of the student's first and second academic years of enrollment over the course of the student's ~~undergraduate education~~enrollment at an institution in all eligible programs as defined in §691.2(d).

(b) A student is eligible to receive up to one National SMART Grant Scheduled Award during each of the student's third and fourth academic years of enrollment over the course of the student's ~~undergraduate education~~enrollment at an institution in all eligible programs as defined in §691.2(d).

(c) A student may not receive more than two ACG Scheduled Awards and two National SMART Grant Scheduled Awards during the student's undergraduate education in all eligible programs.

~~(d) For an eligible student enrolled in a summer term of an eligible program for which the institution determines payments under §691.63(b) and (c), the student's summer term is considered to be~~

~~(1) For an eligible program offered in semesters or trimesters with a single summer term that provides at least 12 semester or trimester hours of coursework, one half of an academic year in weeks of instructional time under §691.63(b)(3)(i) and (c)(4)(i), or one third of an academic year in weeks of instructional time under §691.63(b)(3)(ii) and (c)(4)(ii); or~~

~~(2) For an eligible program offered in quarters with a single summer term that provides at least 12 quarter hours of coursework, one third of an academic year in weeks of instructional time under §691.63(b)(3)(i) and (c)(4)(i), or one fourth of an academic year in weeks of instructional time under §691.63(b)(3)(ii) and (c)(4)(ii).~~

(d)(1) Credit or clock hours earned by a student must be considered towards a student's completion of the credit or clock hours of an academic year if the institution accepts those hours towards the student's eligible program if the credits or hours are earned -

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(i) From Advanced Placement (AP) tests, International Baccalaureate (IB) tests, testing out, life experience, or similar, competency measures; or

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(ii) At an institution while not enrolled as a regular student in an eligible program.

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the hours are earned

(2) An institution may not assign any weeks of instructional time to credit or clock hours accepted towards meeting the student's eligible program that the student earns-

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(i) From Advanced Placement (AP) tests, International Baccalaureate (IB) tests, testing out, life experience, or similar, competency measures; or

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the hours are earned

(ii) At a postsecondary institution while not enrolled as a regular student in an eligible program.

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(3) Credits or clock hours awarded for coursework that is not at the postsecondary level, such as remedial coursework, may not be considered in determining the hours that a student has completed in an academic year.

(4) For a transfer student, an institution determining the amount of credit or clock hours completed by the student shall count --

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that

(i) The number of credit or clock hours accepted on transfer into the student's eligible program; and

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enrolled in an eligible
program includes the
number of hours

(ii) For weeks of instructional time, except as prohibited in (g)(iv4), the proportion of those credits or clock hours accepted on transfer are to the hours and weeks of instructional time of the eligible program's academic year.

(e) An institution may determine a student's progression in the weeks of instructional time of an academic year under the alternatives to an exact accounting as provided for

eligible programs under paragraphs (f), (g), and (h) of this section if the institution--

(1) ~~The institution~~ provides to the student an exact accounting of the student's academic year progression based on the actual weeks of instructional time a student has attended in all eligible programs at the institution if the student either requests a determination or questions whether he or she has completed one or more academic years; ~~and~~

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(2) ~~The institution~~ determines payments for the student's eligible program under §691.63(b) or (c); ~~and~~

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(3) Applies the same alternative under paragraph (f), (g), or (h) to all students enrolled in the eligible program except as provided in paragraph (e)(1) of this section.

(f)(1) For an eligible program for which the institution may determine payments under §691.63(b) or (c), an institution may determine a student's completion of the weeks of instructional time in an academic year under the procedures set forth in paragraph (f)(2) and (f)(3) of this section.

(2) For an eligible student enrolled in an eligible program that has a single summer term that provides at least 12 semester, trimester, or quarter hours of coursework and for which payments are calculated under §691.63(b), the student's term is considered to be--

(i) For an eligible program offered in semesters or trimesters, one-half of an academic year in weeks of instructional time if payments may be determined under §691.63(b)(3)(i), or one-third of an academic year in weeks of instructional time if payments may be determined under §691.63(b)(3)(ii); or

(ii) For an eligible program offered in quarters that has a single summer term, one-third of an academic year in weeks of instructional time if payments may be determined under §691.63(b)(3)(i), or one-fourth of an academic year in weeks of instructional time if payments may be determined under §691.63(b)(3)(ii).

(3) For an eligible student enrolled in an eligible program with a single summer term that provides at least 12

semester, trimester, or quarter hours of coursework for which the institution may determine payments under §691.63(c), the student's term is considered to be-

(i) For an eligible program offered in semesters or trimesters, one-half of the weeks of instructional time in the fall through spring terms if payments may be determined under §691.63(c)(4)(i), or one-third of an academic year in weeks of instructional time if payments may be determined under §691.63(c)(4)(ii); or

(ii) For an eligible program offered in quarters, one-third of the weeks of instructional time in the fall through spring terms if payments may be determined under §691.63(c)(4)(i), or one-fourth of an academic year in weeks of instructional time if payments may be determined under §691.63(c)(4)(ii).

(g)(1) Except as provided in paragraph (g)(4) of this section, an institution with an eligible program for which the institution may determine payments under §§691.63(b) or 691.63(c) may determine a student's completion of the weeks of instructional time in an academic year under the procedures set forth in paragraph (g)(2) or (g)(3) of this section.

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(2) For an eligible student enrolled in an eligible program for which payments may be determined under §691.63(b), the student is considered to complete an academic year in weeks of instructional time upon completion of the credit hours that were taken during that academic year.

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(3) For an eligible student enrolled in an eligible program for which payments may be determined under §691.63(c), trimester, or quarter hours of coursework, the student is considered to complete the weeks of instructional time in the fall through spring terms upon completion of the credit hours that were taken during that academic year.

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(4) In determining weeks of instructional time for purposes of paragraph (g)(2) and (3), an institution may not consider credits towards the student's eligible program that the student earns from AP tests, IB tests, testing out, life experience, or other similarly earned credits or credits earned while not enrolled as a regular student in an eligible program.

(h)(1) Except as provided in paragraph (h)(2) of this section, a student at a grade level can be assumed to have completed a title IV academic year for each of the prior grade levels if for each grade level of a student's eligible program-

(i) A student has completed at least the minimum credit hours for the prior academic years for that program in accordance with this section; and

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(ii) Most full-time students in the student's eligible program complete the ~~hours~~ weeks of instructional time of an academic year during the period of completing each grade level.

Deleted: over at least the weeks of instructional time of an academic year

(2) In determining grade level for a particular student for purposes of paragraph (h)(1), an institution may not consider credits towards the student's eligible program that the student earns from AP tests, IB tests, testing out, life experience, or other similarly earned credits or credits earned while not enrolled as a regular student in an eligible program.

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant**

Origin: Community

Issue: Interpreting prior enrollment - dual enrollment and early college programs

Regulatory Cite: §691.15(b)(1)(ii)(B)

Original Summary of Issue: Section 401A(c)(3)(A)(ii) of the HEA provides that a student is eligible for a first-year Academic Competitiveness Grant (ACG) if the student "has not been previously enrolled in a program of undergraduate education".

Under the July 3, 2006 interim final regulations, the Department basically repeated the statutory language with the understanding that a student was eligible for a first-year ACG if the student had not been previously enrolled in any eligible or ineligible undergraduate educational program as a regular student, i.e., is a student enrolled for the purpose of getting a degree or certificate.

Based on public comment and further consideration of the statutory provision, the language was changed in the November 1, 2006, final regulations to restrict the applicability of the provision by providing that a student is eligible for a first-year ACG if the student has not previously enrolled as a regular student in an ACG eligible program while enrolled in high school. Thus, a student would be eligible after graduating from high school even if-

- While in high school, the student enrolled in an ACG ineligible program, e.g., a certificate program, or postsecondary courses without being admitted as a regular student; or
- After high school, the student was enrolled in an ACG eligible program as long as the student had not completed his or her first academic year of enrollment in an eligible program.

Under the current regulations, students enrolled in dual-credit and early college programs may be eligible if they are not admitted while in high school as a regular student in an eligible program.

Summary of Change: A change is being made to the draft language that would extend eligibility to students who may enroll in an ACG eligible program while in high school so long as they are beyond the age of compulsory school attendance.

There was some discussion narrowing the scope of the statute to avoid disqualifying students who may be enrolled in early college programs and some dual enrollment programs. The discussion noted current restrictions on postsecondary institutions that limit an eligible institution from admitting most high school students. No specific proposed change was discussed, although some examples were raised of potential problems under the current regulations. Based upon these discussions, the Department is considering a change to the current regulations that would not disqualify a student for a first-year ACG award who had enrolled in an ACG eligible program while in high school, so long as the student was above the age of compulsory school attendance at the time and never received Federal student aid funds while in high school. Since the student could not qualify for any Federal student aid funds while enrolled in high school, the enrollment would not disqualify the student for ACG at a later date. This position conforms with the institutional eligibility requirement that an institution may admit as regular students only persons who have a high school diploma or the equivalent or who are beyond the age of compulsory school attendance.

Change:

§691.15 Eligibility to receive a grant.

* * * * *

(b) *ACG Program.* (1) A student is eligible to receive an ACG if the student—

(i) * * *

(ii) For the first academic year of his or her eligible program-

(A) Has successfully completed, after January 1, 2006, a rigorous secondary school program of study recognized by the Secretary under §691.16; and

(B) Has not previously been enrolled as a regular student in an eligible program while--

(1) Enrolled in high school; and

(2) Being at or below the age of compulsory school attendance;

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**Proposed Regulatory Language
Committee II -ACG/National SMART Grant**

Issues

Origin: Community

Issue: Eligible majors and CIP codes expansion

Regulatory Cite: §691.17

Original Summary of Issue: Section 401A(c)(3)(C)(i) of the HEA provides that a student may receive a National SMART Grant if the student is pursuing a major, as determined by the Secretary, in the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language. Section 691.17(a) of the regulations provides that, for each award year, the Secretary identifies the eligible majors in the majors within each designated field. Should the regulations be modified to include a process by which the Secretary may expand the list of identified eligible majors as well as their associated CIP codes within each designated major field (physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language)?

Summary of Change: The change provides a transparent process by which institutions of higher education can request additional majors to be added to the list of eligible majors for an award year.

Change:

§691.17 Determination of eligible majors.

(a) *Eligible major.* For each award year, the Secretary identifies the eligible majors in the physical, life, or computer sciences, mathematics, technology, engineering, or, as determined under paragraph (b) of this section, critical foreign languages.

(b) *Critical foreign languages.* For each award year, the Secretary identifies the foreign languages that are critical to the national security of the United States after consulting with the Director of National Intelligence.

(c) Designation of Eligible Majors. For each award year, the Secretary publishes a list of eligible majors identified by the Classification of Instructional Programs (CIP) code.

(d) Designation of an Additional Eligible Major. For each award year, the Secretary establishes a deadline for an institution to request designation of an additional eligible major.

(1) Requests for designation of an additional eligible major must include—

(i) The CIP code of the additional major;

(ii) The reason(s) the institution believes the additional major should be considered eligible under the statute; and

(iii) Documentation that an institution has actually awarded or plans to award a bachelor's degree in the requested major.

(2) For each award year that at least one additional major is designated, the Secretary will publish an updated list of eligible majors.

(ee) *Duration of eligible major.* A major that ceases to be listed as an eligible major under paragraph (a) of this section for an award year remains an eligible major in subsequent award years for a student who pursues that major and receives a National SMART Grant in the award year in which the major was an eligible major.

Proposed Regulatory Language
Committee II -ACG/National SMART Grant
Issues

Origin: Community

Issue: Institutional flexibility in determining timing of student declaration of eligible major

Regulatory Cite: §§691.15(c)(2)(i)(B), 691.15(c)(2)(ii)

Original Summary of Issue: Section 401A(c)(3)(C) of the HEA provides that a student enrolled or accepted for enrollment in the third or fourth academic year of a program of undergraduate education may receive a National SMART Grant if the student is pursuing a major, as determined by the Secretary, in the physical, life, or computer sciences, mathematics, technology, engineering, or a critical foreign language. Section 691.15(c)(2)(i)(A) requires that, to receive a National SMART Grant, an otherwise eligible student must formally declare an eligible major in accordance with the institution's academic requirements. If the institution's academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant, section 691.15(c)(2)(i)(B) of the regulations provides that, if otherwise eligible, a student can still qualify for a National SMART Grant if he or she demonstrates intention to declare an eligible major as documented by the institution, formally declares an eligible major as soon as the institution's academic requirements allow, and enrolls in courses necessary both to complete the degree program as well as to fulfill the requirements of the intended eligible major. Are there any additional institutional flexibilities by which a student could be determined to be pursuing an eligible major when the institution's academic requirements do not allow declaration of an eligible major in time for the student to qualify for a National SMART Grant?

Summary of Change: The proposed changes provide a transparent procedure to validate student intent to declare

an eligible major. Validation of student intent is determined to consist of two components. The first component consists of a written declaration of intent provided by the student. The second component consists of written documentation of institutional monitoring of student coursework progression in the student's intended eligible major. The two components together document student intent to declare an eligible major.

Change:

§691.15 Eligibility to receive a grant.

(a) *General.* A student who meets the requirements of 34 CFR part 668, Subpart C, is eligible to receive an ACG or a National SMART Grant if the student—

(1) Is a U.S. citizen;

(2) Is receiving a Federal Pell Grant disbursement in the same award year; and

(3) Is enrolled full-time.

(b) *ACG Program.* (1) A student is eligible to receive an ACG if the student—

(i) Meets the eligibility requirements in paragraph (a) of this section;

(ii) For the first academic year of his or her eligible program—

(A) Has successfully completed, after January 1, 2006, a rigorous secondary school program of study recognized by the Secretary under §691.16; and

(B) Has not previously been enrolled as a regular student in an eligible program while enrolled in high school;

(iii) For the second academic year of his or her eligible program—

(A) Has successfully completed, after January 1, 2005, a rigorous secondary school program of study recognized by the Secretary under §691.16; and

(B) Has successfully completed the first academic year of his or her eligible program; and

(C) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of 3.0 or higher on a 4.0 scale, or the equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes.

(2)(i) An institution must document a student's completion of a rigorous secondary school program of study under paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section using—

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) If an institution has reason to believe that the documentation provided by the student under paragraph (b)(2)(i)(B) of this section is inaccurate or incomplete, the institution shall confirm the student's completion of a rigorous secondary school program of study by using documentation provided directly to the institution by the cognizant authority.

(3) For purposes of paragraph (b)(2) of this section—

(i) A cognizant authority includes, but is not limited to—

(A) An LEA;

(B) An SEA or other State agency;

(C) A public or private high school; or

(D) A testing organization such as the College Board or State agency; or

(ii) For a home-schooled student, the student's parent or guardian is the cognizant authority for purposes of providing the documentation required under paragraph (b)(2)(i) of this section, of a rigorous secondary school program under §691.16(d)(2), including a transcript or the

equivalent or a detailed course description listing the secondary school courses completed by the student.

(4) For a student who transfers from an eligible program at one institution to an eligible program at another institution, the institution to which the student transfers may rely upon the prior institution's determination that the student completed a rigorous secondary school program of study in accordance with paragraphs (b)(1)(ii)(A) and (b)(1)(iii)(A) of this section based on documentation that the prior institution may provide, or based on documentation of the receipt of an ACG disbursement at the prior institution.

(c) *National SMART Grant Program.* A student is eligible to receive a National SMART Grant for the third or fourth academic year of his or her eligible program if the student—

(1) Meets the eligibility requirements in paragraph (a) of this section;

(2)(i)(A) In accordance with the institution's academic requirements, formally declares an eligible major; or

(B) If the institution's academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant on that basis demonstrates his or her intention to declare an eligible major as documented by the institution, and in accordance with paragraph (d) of this section; and

(ii) Contemporaneously, as determined by the institution, enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the intended eligible major as documented in accordance with paragraph (e) of this section;

(3) Has a cumulative GPA through the most recently completed payment period of 3.0 or higher on a 4.0 scale, or the equivalent numeric measure, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;

(4) For the third academic year, has successfully completed the second academic year of his or her eligible program; and

(5) For the fourth academic year, has successfully completed the third academic year of his or her eligible program.

(d) A student-

(1) Demonstrates his or her intention to declare an eligible major by providing a written declaration such as, but not limited to--

(i) Self-certification of intent to major in an eligible major signed by the student; or

(ii) Other signed student declaration of intent to major in an eligible major; and

(2) Formally declares an eligible major as soon as allowed under the institution's academic requirements.

(e) Documentation of coursework progression in the eligible program and major may include, but is not limited to-

(i) Written counselor or advisor tracking of coursework progress toward a degree in the intended eligible major at least annually;

(ii) Written confirmation from the academic department that the student is progressing in coursework leading to a degree in the intended eligible major signed by a departmental representative for the intended eligible major at least annually; or

(iii) Other written documentation of coursework that satisfies the ongoing nature of monitoring student coursework progression in the intended eligible major at least annually.

~~(ii) Enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the intended eligible major;~~

~~(3) Has a cumulative GPA through the most recently completed payment period of 3.0 or higher on a 4.0 scale, or the equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;~~

~~(4) For the third academic year, has successfully completed the second academic year of his or her eligible program; and~~

~~(5) For the fourth academic year, has successfully completed the third academic year of his or her eligible program.~~

(fe) *Transfer student's grade point average.* Under the ACG and National SMART Grant programs, if a student transfers from another institution, the institution to which the student transfers—

(1) Must calculate the student's GPA for the student's first payment period of enrollment using the grades earned by the student in the coursework from any prior institution that it accepts towards the student's eligible program; or

(2) If the institution accepts no credits towards the student's eligible program, must consider the student to be ineligible until the student completes at least one payment period in an eligible program with a qualifying GPA.

**Proposed Regulatory Language
Committee II - ACG/National SMART Grant**

Issues

Origin: Community

Issue: Completion of a Rigorous Secondary School Program of Study

Regulatory Cite: §691.15(b)

Original Summary of Issue: Section 401A(c)(3)(A)(i) and (B)(i) of the HEA requires that, to receive an ACG, a student must have "successfully completed", that is, graduated from, a rigorous secondary school program of study, as recognized by the Secretary. The regulations provide that an institution is required to document a student's completion of a rigorous secondary school program of study using documentation from the appropriate cognizant authority provided by that authority or the student. However, the ACG regulations do not specifically indicate that a student must have graduated from high school and in the case of home school students, obtained a secondary school completion credential or completed a secondary school education in a home school setting that qualifies as an exemption from the compulsory attendance requirements under State law.

Summary of Change: The regulations are clarified to provide that in order for a student to be eligible for an ACG, a student must complete a secondary school education by receiving a high school diploma or, for home-schooled students, the certification of completion of a secondary school education by the cognizant authority in addition to successfully completing a rigorous secondary school program of study.

Change:
§691.15 Eligibility to receive a grant.

* * * * *

(b) ACG Program. (1) A student is eligible to receive an ACG if the student--

(i) Meets the eligibility requirements in paragraph (a) of this section;

(ii) For the first academic year of his or her eligible program--

(A) Has received a high school diploma or for a home-schooled student the certification of completion of a secondary school education by the cognizant authority;

~~(B)~~(A) Has successfully completed, after January 1, 2006, a rigorous secondary school program of study recognized by the Secretary under §691.16; and

~~(C)~~~~(B)~~ Has not previously been enrolled as a regular student in an eligible program while enrolled in high school;

(iii) For the second academic year of his or her eligible program--

(A) Has received a high school diploma or for a home-schooled student the certification of completion of a secondary school education by the cognizant authority;

~~(A)~~(B) Has successfully completed, after January 1, 2005, a rigorous secondary school program of study recognized by the Secretary under §691.16; and

~~(B)~~(C) Has successfully completed the first academic year of his or her eligible program; and

~~(C)~~(D) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of 3.0 or higher on a 4.0 scale, or the equivalent **numeric measure**, consistent with other institutional measures for academic and title IV, HEA program purposes.

(2)(i) An institution must document a student's completion of a secondary school education and a rigorous secondary school program of study under paragraphs (b)(1)(ii)(A), (b)(1)(ii)(B), (b)(1)(iii)(A) and (b)(1)(iii)~~(A)~~(B) of this section using--

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) If an institution has reason to believe that the documentation provided by the student under paragraph (b)(2)(i)(B) of this section is inaccurate or incomplete, the institution shall confirm the student's completion of, and graduation from, a rigorous secondary school program of study by using documentation provided directly to the institution by the cognizant authority.

(3) For purposes of paragraph ~~(b)(2)~~ of this section--

(i) A cognizant authority includes, but is not limited to--

(A) An LEA;

(B) An SEA or other State agency;

(C) A public or private high school; or

(D) A testing organization such as the College Board or State agency; or

(ii) For a home-schooled student, the student's parent or guardian is the cognizant authority for purposes of providing the documentation required under paragraph ~~(b)(2)(i)~~ of this section, of a successfully completing, and graduating from, a rigorous secondary school program under §691.16(d)(2), including a transcript or the equivalent or a detailed course description listing the secondary school courses completed by the student.

(4) For a student who transfers from an eligible program at one institution to an eligible program at another institution, the institution to which the student transfers may rely upon the prior institution's determination that the student completed, and graduated from, a rigorous secondary school program of study in accordance with paragraphs (b)(1)(ii)(A), (b)(1)(ii)(B), (b)(1)(iii)(A), and (b)(1)(iii)~~(B)(A)~~ of this section based on documentation that the prior institution may provide, or based on documentation of the receipt of an ACG disbursement at the prior institution.

**Proposed Regulatory Language
Committee II -ACG/National SMART Grant**

Issues

Origin: Community

Issue: Departmental monitoring of student disbursements

Regulatory Cite: None

Original Summary of Issue: Under section 401A(c)(3)(A), (B), and (C) of the HEA, a student's eligibility for the ACG and National Smart Grant programs is for one grant for each of his or her first, second, third, or fourth academic years of enrollments in an eligible program. A student may complete an academic year as a less-than-full-time student and, therefore, never receives a grant for that academic year. Should the regulations be amended by requiring the Secretary to provide information to participating institutions concerning a student's disbursements by academic year award?

Summary of Change: There is no regulatory change.

Federal Student Aid (FSA) is interested in using this process to help identify systems changes that may be needed to assist schools in administering the ACG and National SMART Grant Programs. Beginning with the 2007-08 processing year, FSA has instituted some systems changes to help institutions track ACG/SMART eligibility. New definitions have been added to the National Student Loan Data System (NSLDS) to ensure that the system will not edit on the grade level discrepancy that could occur in a student's record between loans and ACG/SMART grants. As part of its systems development, FSA is researching whether or not ACG and SMART disbursements will be included on all future MRRs. Also, FSA is evaluating adding comment codes regarding a student's remaining eligibility for an ACG or National SMART Grant for the 2008-09 application processing year as well as whether to add a COD data element to indicate what percentage of remaining eligibility a student has for an academic level. Currently, FSA does not plan to

track ACG/SMART denial reasons and will therefore not require schools to submit this information.