

(c) In accordance with 34 CFR 668.84 the Secretary may impose a fine on the institution if the institution fails to comply with the requirements specified in paragraphs (a) or (b) of this section.

(d)(1) Notwithstanding paragraphs (a) or (b) of this section, if an institution demonstrates to the satisfaction of the Secretary that the institution has provided Federal Pell Grants in accordance with this part but has not received credit or payment for those grants, the institution may receive payment or a reduction in accountability for those grants in accordance with paragraphs (d)(4) and either (d)(2) or (d)(3) of this section.

(2) The institution must demonstrate that it qualifies for a credit or payment by means of a finding contained in an audit report of an award year that was the first audit of that award year and that was conducted after December 31, 1988 and timely submitted to the Secretary under 34 CFR 668.23(c).

(3) An institution that timely submits the Payment Data for a student in accordance with paragraph (a) of this section but does not timely submit to the Secretary, or have accepted by the Secretary, the Payment Data necessary to document the full amount of the award to which the student is entitled, may receive a payment or reduction in accountability in the full amount of that award, if—

(i) A program review demonstrates to the satisfaction of the Secretary that the student was eligible to receive an amount greater than that reported in the student's Payment Data timely submitted to, and accepted by the Secretary; and

(ii) The institution seeks an adjustment to reflect an underpayment for that award that is at least \$100.

(4) In determining whether the institution qualifies for a payment or reduction in accountability, the Secretary takes into account any liabilities of the institution arising from that audit or program review or any other source. The Secretary collects

those liabilities by offset in accordance with 34 CFR part 30.

(Approved by the Office of Management and Budget under control number 1840-0688)

(Authority: 20 U.S.C. 1070a, 1094, 1226a-1)

[60 FR 61816, Dec. 1, 1995; 61 FR 3776, Feb. 1, 1996]

PART 692—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

Subpart A—Leveraging Educational Assistance Partnership Program

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AUTHORITY: 20 U.S.C 1070c through 1070c-4, unless otherwise noted.

SOURCE: 52 FR 45433, Nov. 27, 1987, unless otherwise noted.

Subpart A—Leveraging Educational Assistance Partnership Program

GENERAL

§ 692.1 What is the Leveraging Educational Assistance Partnership?

The Leveraging Educational Assistance Partnership (LEAP) Program assists States in providing grants and work-study assistance to eligible students who attend institutions of higher education and have substantial financial need. The work-study assistance is provided through campus-based community service work learning study programs, hereinafter referred to as community service-learning job programs.

(Authority: 20 U.S.C. 1070c-1070c-4)

[52 FR 45433, Nov. 27, 1987, as amended at 65 FR 38729, June 22, 2000]

§ 692.2 Who is eligible to participate in the LEAP Program?

(a) *State participation.* A State that meets the requirements in §§692.20 and

692.21 is eligible to receive payments under the LEAP program.

(b) *Student participation.* A student must meet the requirements of §692.40 to be eligible to receive assistance from a State under the LEAP program.

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

[52 FR 45433, Nov. 27, 1987, as amended at 65 FR 38729, June 22, 2000]

§ 692.3 What regulations apply to the LEAP Program?

The following regulations apply to the LEAP Program:

(a) The regulations in this part 692.

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR 75.60-75.62 (Ineligibility of Certain Individuals to Receive Assistance).

(2) 34 CFR part 76 (State-Administered Programs).

(3) 34 CFR part 77 (Definitions That Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(c) The Student Assistance General Provisions in 34 CFR part 668.

(Authority: 20 U.S.C. 1070c-1070c-4)

[52 FR 45433, Nov. 27, 1987, as amended at 55 FR 21716, May 25, 1990; 59 FR 4223, Jan. 28, 1994; 65 FR 38729, June 22, 2000]

§ 692.4 What definitions apply to the LEAP Program?

The following definitions apply to the regulations in this part:

(a) The definitions of the following terms under 34 CFR part 600:

Postsecondary vocational institution (§600.6).

Public or private nonprofit institution of higher education (§600.4).

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Secretary (§ 600.2).
State (§ 600.2).

(b) The definitions of the following terms under 34 CFR part 668:

Academic year (§ 668.2).
Enrolled (§ 668.2).
HEA (§ 668.2).
Institution (§ 668.1(b)).

(c) The definitions of the following terms also apply to the LEAP Program:

Full-time student means a student carrying a full-time academic workload—other than by correspondence—as measured by both of the following:

(1) Coursework or other required activities, as determined by the institution that the student attends or by the State.

(2) The tuition and fees normally charged for full-time study by that institution.

Nonprofit has the same meaning under this part as the same term defined in 34 CFR 77.1 of EDGAR.

(Authority: 20 U.S.C. 1070c-1070c-4)

[52 FR 45433, Nov. 27, 1987, as amended at 59 FR 4223, Jan. 28, 1994; 65 FR 38729, June 22, 2000]

WHAT IS THE AMOUNT OF ASSISTANCE AND HOW MAY IT BE USED?

§ 692.10 How does the Secretary allot funds to the States?

(a)(1) The Secretary allots to each State participating in the LEAP program an amount which bears the same ratio to the Federal LEAP funds appropriated as the number of students in that State who are “deemed eligible” to participate in the State’s LEAP program bears to the total number of students in all States who are “deemed eligible” to participate in the LEAP program, except that no State may receive less than it received in fiscal year 1979.

(2) If the Federal LEAP funds appropriated for a fiscal year are not sufficient to allot to each State the amount of Federal LEAP funds it received in fiscal year 1979, the Secretary allots to each State an amount which bears the same ratio to the amount of Federal LEAP funds appropriated as the amount of Federal LEAP funds that State received in fiscal year 1979 bears

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to the amount of Federal LEAP funds all States received in fiscal year 1979.

(b) For the purpose of paragraph (a)(1) of this section, the Secretary determines the number of students “deemed eligible” to participate in a State’s LEAP Program by dividing the amount of that State’s LEAP expenditures, including both its Federal allotment and the State-appropriated funds matching the allotment, by the average grant award per student of all participating States. The Secretary determines the “average grant award per student” by dividing the total number of student recipients for all States into the total amount of LEAP expenditures for all States, including both the Federal allotments and the State-appropriated funds matching those allotments. In making this determination, the Secretary uses the most current available data reported by each State.

(Authority: 20 U.S.C. 1070c)

[52 FR 45433, Nov. 27, 1987, as amended at 59 FR 4223, Jan. 28, 1994; 65 FR 38730, June 22, 2000]

§ 692.11 For what purposes may a State use its payments under the LEAP Program?

A State may use the funds it receives under the LEAP Program only to make grants to students and to pay wages or salaries to students in community service-learning jobs.

(Authority: 20 U.S.C. 1070c)

[52 FR 45433, Nov. 27, 1987, as amended at 65 FR 38730, June 22, 2000]

HOW DOES A STATE APPLY TO PARTICIPATE IN THE LEAP PROGRAM?

§ 692.20 What must a State do to receive an allotment under this program?

(a) For each fiscal year that it wishes to participate, a State shall submit an application that contains information that shows that its Leveraging Educational Assistance Partnership Program meets the requirements of § 692.21.

(b)(1) Except as provided in paragraph (b)(2) of this section, the State must submit its application through

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the State agency designated to administer its Leveraging Educational Assistance Partnership Program as of July 1, 1985.

(2) If the Governor of the State so designates, and notifies the Secretary in writing, the State may submit its application under paragraph (a) of this section through an agency that did not administer its Leveraging Educational Assistance Partnership Program as of July 1, 1985.

(Authority: 20 U.S.C. 1070c-2(a))

[52 FR 45433, Nov. 27, 1987, as amended at 65 FR 38730, June 22, 2000]

§ 692.21 What requirements must be met by a State program?

To receive a payment under the LEAP Program for any fiscal year, a State must have a program that—

(a) Is administered by a single State agency;

(b) Provides assistance only to students who meet the eligibility requirements in § 692.40;

(c) Provides that assistance under this program to a full-time student will not be more than \$5,000 for each academic year;

(d) Provides for the selection of students to receive assistance on the basis of substantial financial need determined annually by the State on the basis of standards that the State establishes and the Secretary approves;

CROSS-REFERENCE: See § 692.41.

(e) Provides that no student or parent shall be charged a fee that is payable to an organization other than the State for the purpose of collecting data to make a determination of financial need in accordance with paragraph (d) of this section;

(f) Provides that all public or private nonprofit institutions of higher education and all postsecondary vocational institutions in the State are eligible to participate unless that participation is in violation of—

(1) The constitution of the State; or

(2) A State statute that was enacted before October 1, 1978;

(g) Provides that, if a State awards grants to independent students or to students who are less-than-full-time students enrolled in an institution, a reasonable portion of the State's allo-

cation must be awarded to those students;

(h) Provides that—

(1) The State will pay an amount for grants and work-study jobs under this part for each fiscal year that is not less than the payment to the State under this part for that fiscal year; and

(2) The amount that the State expends during a fiscal year for grants and work-study jobs under the LEAP Program represents an additional amount for grants and work-study jobs for students attending institutions over the amount expended by the State for those activities during the fiscal year two years prior to the fiscal year in which the State first received funds under the LEAP Program;

(i) Provides for State expenditures under the State program of an amount that is not less than—

(1) The average annual aggregate expenditures for the preceding three fiscal years; or

(2) The average annual expenditure per full-time equivalent student for those years;

(j) Provides that, to the extent practicable, the proportion of the funds awarded to independent students in the LEAP Program shall be the same proportion of funds awarded to independent students as is in the State program or programs of which the State's LEAP Program is a part; and

(k) Provides for reports to the Secretary that are necessary to carry out the Secretary's functions under the LEAP Program.

(Authority: 20 U.S.C. 1070c-2)

[52 FR 45433, Nov. 27, 1987, as amended at 59 FR 4223, Jan. 28, 1994; 65 FR 38730, June 22, 2000]

HOW DOES A STATE ADMINISTER ITS COMMUNITY SERVICE-LEARNING JOB PROGRAM?

§ 692.30 How does a State administer its community service-learning job program?

(a)(1) Each year, a State may use up to 20 percent of its allotment for a community service-learning job program that satisfies the conditions set forth in paragraph (b) of this section.

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(2) A student who receives assistance under this section must receive compensation for work and not a grant.

(b)(1) The community service-learning job program must be administered by institutions in the State.

(2) Each student employed under the program must be employed in work in the public interest by an institution itself or by a Federal, State, or local public agency or a private nonprofit organization under an arrangement between the institution and the agency or organization.

(c) Each community service-learning job must—

(1) Provide community service as described in paragraph (d) of this section;

(2) Provide participating students community service-learning opportunities related to their educational or vocational programs or goals;

(3) Not result in the displacement of employed workers or impair existing contracts for services;

(4) Be governed by conditions of employment that are considered appropriate and reasonable, based on such factors as type of work performed, geographical region, and proficiency of the employee;

(5) Not involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction; and

(6) Not pay any wage to a student that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938.

(d) For the purpose of paragraph (c)(1) of this section, “community service” means direct service, planning, or applied research that is—

(1) Identified by an institution through formal or informal consultation with local nonprofit, governmental, and community-based organizations; and

(2) Designed to improve the quality of life for residents of the community served, particularly low-income residents, in such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural de-

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velopment, and community improvement.

(e) For the purpose of paragraph (d)(2) of this section, “low-income residents” means—

(1) Residents whose taxable family income for the year before the year in which they are scheduled to receive assistance under the LEAP Program did not exceed 150 percent of the amount equal to the poverty level determined by using criteria of poverty established by the United States Census Bureau; or

(2) Residents who are considered low-income residents by the State.

(Authority: 20 U.S.C. 1070c-2, 1070-4)

[52 FR 45433, Nov. 27, 1987, as amended at 59 FR 4223, Jan. 28, 1994; 65 FR 38730, June 22, 2000]

HOW DOES A STATE SELECT STUDENTS UNDER THE LEAP PROGRAM?

§ 692.40 What are the requirements for student eligibility?

To be eligible for assistance, a student must—

(a) Meet the relevant eligibility requirements contained in 34 CFR 668.32; and

(b) Have substantial financial need as determined annually in accordance with the State’s criteria approved by the Secretary.

(Authority: 20 U.S.C. 1070c-2, 1091)

[52 FR 45433, Nov. 27, 1987, as amended at 65 FR 38730, June 22, 2000]

§ 692.41 What standards may a State use to determine substantial financial need?

(a) A State determines whether a student has substantial financial need on the basis of criteria it establishes that are approved by the Secretary. A State may define substantial financial need in terms of family income, expected family contribution, and relative need as measured by the difference between the student’s cost of attendance and the resources available to meet that cost. To determine substantial need, the State may use—

(1) A system for determining a student’s financial need under part F of title IV of the HEA;

(2) The State’s own needs analysis system if approved by the Secretary; or

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(3) A combination of these systems, if approved by the Secretary.

(b) The Secretary generally approves a need-analysis system under paragraph (a) (2) or (3) of this section only if the need-analysis system applies the term "independent student" as defined under section 480(d) of the HEA. However, for good cause shown, the Secretary may approve, on a case-by-case basis, a State's need analysis system that uses a definition for "independent student" that varies from that term as defined in section 480(d) of the HEA.

(Authority: 20 U.S.C. 1070c-2)

[52 FR 45433, Nov. 27, 1987, as amended at 59 FR 4223, Jan. 28, 1994]

Subpart B—Special Leveraging Educational Assistance Partnership Program

SOURCE: 65 FR 65608, Nov. 1, 2000, unless otherwise noted.

GENERAL

§ 692.50 What is the Special Leveraging Educational Assistance Partnership Program?

The Special Leveraging Educational Assistance Partnership (SLEAP) Program assists States in providing grants, scholarships, and community service work-study assistance to eligible students who attend institutions of higher education and demonstrate financial need.

(Authority: 20 U.S.C. 1070c-3a)

[66 FR 34039, June 26, 2001]

§ 692.51 What other regulations apply to the SLEAP Program?

The regulations listed in §692.3 also apply to the SLEAP Program.

(Authority: 20 U.S.C. 1070c-3a)

§ 692.52 What definitions apply to the SLEAP Program?

The definitions listed in §692.4 apply to the SLEAP Program.

(Authority: 20 U.S.C. 1070c-3a)

[66 FR 34039, June 26, 2001]

§ 692.53 What requirements must a State satisfy to receive SLEAP Program funds?

To receive SLEAP Program funds for any fiscal year, a State must—

(a) Participate in the LEAP Program;

(b) Meet the requirements in §692.60; and

(c) Have a program that satisfies the requirements in §692.21(a), (b), (d), (e), (f), (g), (j), and (k).

(Authority: 20 U.S.C. 1070c-3a)

[65 FR 65608, Nov. 1, 2000, as amended at 66 FR 34039, June 26, 2001]

§ 692.54 What eligibility requirements must a student satisfy to participate in the SLEAP Program?

To receive assistance under the SLEAP Program, a student must meet the eligibility requirements contained in §692.40.

(Authority: 20 U.S.C. 1070c-3a)

[66 FR 34039, June 26, 2001]

HOW DOES A STATE APPLY TO PARTICIPATE IN THE SLEAP PROGRAM?

§ 692.60 What must a State do to receive an allotment under the SLEAP Program?

To receive an allotment under the SLEAP Program, a State must—

(a) Submit an application in accordance with the provisions in §692.20;

(b) Identify the activities in §692.71 for which it plans to use the SLEAP Federal and non-Federal funds;

(c) Ensure that the non-Federal funds used as matching funds represent dollars that are in excess of the total dollars that a State spent for need-based grants, scholarships, and work-study assistance for fiscal year 1999, including the State funds reported as part of its LEAP Program;

(d) Provide an assurance that for the fiscal year prior to the fiscal year for which the State is requesting Federal funds, the amount the State expended from non-Federal sources per student, or the aggregate amount the State expended, for all the authorized activities in §692.71 will be no less than the amount the State expended from non-Federal sources per student, or in the aggregate, for those activities for the

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second fiscal year prior to the fiscal year for which the State is requesting Federal funds; and

(e) Ensure that the Federal share will not exceed one-third of the total funds expended under the SLEAP Program.

(Authority: 20 U.S.C. 1070c-3a)

[65 FR 65608, Nov. 1, 2000, as amended at 66 FR 34039, June 26, 2001]

WHAT IS THE AMOUNT OF ASSISTANCE AND HOW MAY IT BE USED?

§ 692.70 How does the Secretary allot funds to the States?

For each fiscal year, the Secretary allots to each eligible State that applies for SLEAP funds an amount in accordance with the provisions in § 692.10.

(Authority: 20 U.S.C. 1070c-3a)

§ 692.71 What activities may be funded under the SLEAP Program?

A State may use the funds it receives under the SLEAP Program for one or more of the following activities:

(a) Supplement LEAP grant awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP grant award amounts for students; or

(2) Increasing the number of students receiving LEAP grant awards.

(b) Supplement LEAP community service work-study awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP community service work-study award amounts for students; or

(2) Increasing the number of students receiving LEAP community service work-study awards.

(c) Award scholarships to eligible students who demonstrate financial need and who—

(1) Demonstrate merit or academic achievement; or

(2) Wish to enter a program of study leading to a career in—

(i) Information technology;

(ii) Mathematics, computer science, or engineering;

(iii) Teaching; or

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(iv) Other fields determined by the State to be critical to the State's workforce needs.

(Authority: 20 U.S.C. 1070c-3a)

[66 FR 34039, June 26, 2001]

§ 692.72 May a State use the funds it receives under the SLEAP Program to pay administrative costs?

A State may not use any of the funds it receives under the SLEAP Program to pay any administrative costs.

(Authority: 20 U.S.C. 1070c-3a)

[66 FR 34040, June 26, 2001]

HOW DOES A STATE ADMINISTER ITS COMMUNITY SERVICE WORK-STUDY PROGRAM?

§ 692.80 How does a State administer its community service work-study program?

When administering its community service work-study program, a State must follow the provisions in § 692.30, other than the provisions of paragraph (a)(1) of that section.

(Authority: 20 U.S.C. 1070c-3a)

PART 693 [RESERVED]

PART 694—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS (GEAR UP)

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694.1 What is the maximum amount that the Secretary may award each fiscal year to a Partnership or a State under this program?

694.2 Which students must a Partnership, or a State that chooses to use the cohort approach in its project, serve under the program's early intervention component?

694.3 What are the requirements for a cohort?

694.4 Which students must a State or Partnership serve when there are changes in the cohort?

694.5 What requirements must be met by a Partnership or State that chooses to provide services to private school students under the program's early intervention component?

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