

Selected Amendments to the Higher Education Act from P.L. 110-315 Affecting Institutional and Student Eligibility

Changes made by the Higher Education Opportunity Act (P.L. 110-315) are effective on date of enactment (8/14/08) unless otherwise specified, but many provisions require regulations to implement fully.

Institutional Eligibility

Experimental sites

Current experiments

- Voluntary participation of any experimental sites in existence as of 7/1/07 is continued
 - Experiments deemed unsuccessful by the Department of Education (ED) must be discontinued by 6/30/09

Authority to approve new experiments is expanded to include:

- Award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems)
- Verification of student financial aid application data
- Entrance and exit interviews
- Other management procedures or processes as determined in negotiated rulemaking
- Award rules related to an experiment in modular or compressed schedules

Degrees Awarded

The types of degrees that qualify a public or private nonprofit institution as Title IV-eligible are expanded to include a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by ED.

Effective 7/1/10.

Proprietary Institutions

Proprietary institutions, formerly limited to providing an eligible program of training to prepare students for gainful employment in a recognized occupation, are permitted to offer bachelor degrees in liberal arts

- The institution must provide a baccalaureate degree program in liberal arts by 1/1/09
- The institution must have continuously held accreditation by a recognized regional accrediting agency or association since 10/1/07 or earlier
- The *Statement of the Managers* accompanying the bill that became P.L. 110-315 explains that Congress does not intend the terms “gainful employment in a recognized occupation” and “liberal arts” to be mutually exclusive

Effective 7/1/10.

The 90/10 rule (relating to the proportion of an institution’s revenue that must come from sources other than Title IV assistance) is moved from the definition of eligible institution to the requirements of the Program Participation Agreement

- Law spells out details of calculation
- Sanctions for violating the non-Title IV revenue rule include provisional certification for a one-year violation, and suspension of institutional eligibility if failure to meet the rule extends to two years

Effective 8/14/08.

Distance Education

Throughout the law the terms “distance learning” and “telecommunications” are replaced with “distance education,” the definition of which is added to Title I, the Higher Education Act General Provisions.

NEW LAW: DISTANCE EDUCATION	OLD LAW: TELECOMMUNICATIONS
<p>Distance education uses one or more of the following technologies...</p> <ul style="list-style-type: none"> • the Internet; • one-way and two-way transmissions through: <ul style="list-style-type: none"> ➢ open broadcast ➢ closed circuit ➢ cable ➢ microwave ➢ broadband lines ➢ fiber optics ➢ satellite ➢ wireless communications devices • audio conferencing • video cassettes, DVDs, and CD-ROMs, if they are used in a course in conjunction with any of the technologies listed above <p>...to:</p> <ul style="list-style-type: none"> • deliver instruction to students who are separated from the instructor • support regular and substantive interaction between the students and the instructor, synchronously or asynchronously 	<p>“Telecommunications” meant the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term did not include a course that was delivered using video cassette or disc recordings at the institution and that was not delivered in person to other students of that institution.</p>

Definition of distance education effective 8/14/08.

Drug and Alcohol Abuse Prevention Program

During its biennial review of the effectiveness of its drug and alcohol abuse prevention program, an institution must, in addition to ensuring consistent application of sanctions, determine:

- The number of drug and alcohol-related violations and fatalities reported to campus officials that occur on the institution's campus or as part of any of the institution's activities
- The number and type of sanctions imposed by the institution as a result those violations and fatalities

Effective 8/14/08

Admission of Regular Students

Academic credentials

- Home-schooled students may be admitted on the same basis as high school graduates and GED holders
 - Currently ED policy considers students who have completed a secondary school curriculum to be beyond the age of compulsory attendance
- Students who are dually or concurrently enrolled in a secondary school may be admitted as regular students
 - Does not change the *student* eligibility criterion that prohibits paying Title IV aid to students who are simultaneously enrolled in secondary school

Effective 7/1/10

Student Eligibility

Ability to benefit

A student is considered to have the ability to benefit from the education or training offered upon satisfactory completion of 6 credit hours (or the equivalent coursework) that are applicable toward a degree or certificate offered by the institution.

Effective 8/14/08

Distance Education

Students enrolled principally in distance education courses are not considered correspondence students; other than replacing "telecommunications" with "distance education" (as defined above under *Institutional Eligibility*), treatment of and requirements pertaining to these students remain essentially the same.

Effective 7/1/10

Drug Convictions

New law clarifies that a student who successfully passes 2 unannounced drug tests conducted by a drug rehabilitation program that meets regulatory criteria regains Title IV eligibility. The law

retains the current provision that completion of a drug rehabilitation program as defined by regulation (which includes 2 unannounced drug tests) also restores eligibility.

Effective 7/1/10

Students with Intellectual Disabilities

A student with an intellectual disability means a student:

- With mental retardation or a cognitive impairment, characterized by significant limitations in:
 - intellectual and cognitive functioning; and
 - adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and
- Who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act

Regardless of program-specific rules, ED is directed to formulate regulations that permit a student with intellectual disabilities to receive Federal Pell Grants, FSEOG, and Federal Work-Study awards if the student meets the following criteria:

- Is enrolled or accepted for enrollment in a comprehensive transition and postsecondary program for students with intellectual disabilities at an institution of higher education
- Is maintaining satisfactory progress in the program as determined by the institution, in accordance with standards established by the institution
- The general student eligibility criteria in effect for all students concerning:
 - Citizenship
 - Social security number
 - Statement of Educational Purpose (on FAFSA)
 - Title IV overpayments and defaults
 - Repayment of fraudulently obtained Title IV aid

A comprehensive transition and postsecondary program for students with intellectual disabilities means a degree, certificate, or nondegree program that:

- Is offered by an institution of higher education;
- Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment;
- Includes an advising and curriculum structure; and
- Requires students with intellectual disabilities to participate at least half-time, as determined by the institution, with such participation focusing on academic components and occurring through one or more of the following activities:
 - Regular enrollment in credit-bearing courses with nondisabled students offered by the institution
 - Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit
 - Enrollment in noncredit-bearing, nondegree courses with nondisabled students
 - Participation in internships or work-based-training in settings with nondisabled individuals

Effective 8/14/08, but law requires regulations to implement