

AACC Summary and Analysis of Draft Workforce Pell Grant Regulations (Updated 12/15)

On December 12, the Accountability in Education and Access Through Demand-driven Workforce Pell (AHEAD) negotiated rulemaking committee completed its first 1-week session. The committee spent the bulk of the week addressing draft Workforce Pell (WP) regulations and reached consensus on them on the session's final day. Given this consensus, the Department of Education (ED) is bound to the agreed-upon regulations as the basis for an upcoming Notice of Proposed Rulemaking (NPRM), which should happen in the first few months of 2026. Further changes to the regulations may occur during this next phase of the rulemaking process.

The draft WP regulations add to the statute eligibility requirements that programs must meet to qualify and outline a multi-step approval process. In general, the program hews closely to the statutory text in the One Big Beautiful Bill Act.

The AHEAD committee did make some changes to the original draft proposed by ED. These changes were largely clarifying in nature and did not fundamentally alter the regulations. The summary below reflects notable changes made to the draft regulations during the week of negotiated rulemaking (in **bold** type).

Program Length and Student Eligibility

- Individual WP programs must be approved by ED, in similar fashion to how prison education programs need specific approval. This is required by law.
- Only 25% of a WP program may be offered by a Title IV-ineligible institution, in coordination with the eligible institution. The ability for most other programs to have another institution offer up to 50% of the program, with accreditor approval, does not apply to WP programs.
- Non-credit or reduced-credit remedial courses, including ESL, that are part of a for-credit Workforce Pell program are not Pell eligible. *By implication, this section of the regulations clarifies (along with other aspects of the regulations) that non-credit programs are generally eligible for Workforce Pell.*
- Students who have already received a baccalaureate degree are eligible for Workforce Pell, unlike “regular” Pell Grants.
- A student may not receive a Workforce Pell Grant and a “regular” Pell Grant at the same time. *This is commensurate with current law which prevents students from receiving concurrent Pell Grants from two different institutions.*

- Students in eligible workforce programs are only eligible for WP and no other form of Title IV aid, such as student loans.
- Eligible WP programs are between 150–599 clock hours of at least 8 but fewer than 15 weeks. Credit programs must be at least 4 but fewer than 16 semester or trimester hours, or at least 6 but fewer than 24 quarter hours. Correspondence and study abroad programs are ineligible, as are direct assessment programs.

Governor Approval of Eligible Workforce Programs

The first stage of the WP approval process is tasked to governors in consultation with their state workforce boards. The draft regulations give governors much flexibility in how they go about fulfilling these duties. The focus of the regulations is to require governors to devise written policies and procedures for making WP determinations.

The governor is responsible for determining that a program:

- is in a high-skill, high-wage, or in-demand occupation and meets the hiring requirements of employers;
- awards a credential that is stackable and portable across employers. This requirement does not apply to occupations for which there is only one credential. In such cases, the requirement is simply that the program award that credential; and
- prepares students for a subsequent certificate or degree program in which they will receive credit for the work done in the WP program. *The regulations do not clarify how this requirement interacts with the stackability requirement in the bullet above. Is a WP program that leads to credit in a certificate or degree program considered stackable? Conversely, are occupations where there is only one credential and therefore exempt from the stackable requirement also exempt from the credit requirement? These questions remain unanswered.*

The governor must establish a process for institutions to request a determination that its program meets the above requirements. That process must be publicly available and include:

- The criteria the governor will use to determine if a program meets the requirements above. These criteria must include:
 - The state's methodology used to determine and periodically review which occupations are high-skill, high-wage, or in-demand, and where the list of such occupations will be publicly available. **The periodic review shall be done not less than every 2 years at the same time that the state is developing and modifying its state plan under the Workforce Innovation and Opportunity Act (WIOA).**

- A written policy for determining whether the program meets the hiring demands of employers that considers the alignment between the competencies taught in the program and the competencies needed by those employers. The development of this policy must incorporate direct input from employers or employer associations, state, and local workforce boards.
 - A program providing related instruction for a Registered Apprenticeship program in a high-wage, high-skill, or in-demand occupation is automatically deemed to meet the hiring needs of employers in that occupation.
 - Written policies for determining whether a program has met the “stackable and portable” and “credit in a subsequent program” requirements. The former policy must establish documented connections between the WP program and additional credentials, consider real-time labor-market information and include a process for employer validation. **Any data showing whether students have actually obtained additional credentials through these pathways must also be considered. Credit awarded in a subsequent program must be done through a written agreement, including articulation, transfer-of credit and consortium or partnership agreements, or similar arrangements. ED officials were clear that this still allowed for the same institution to award credit for the work done in its WP program, and that the regulation’s preamble would underscore that fact.**
- The information that an institution must provide to the state so that it can determine whether the program meets the eligibility requirements. This includes information that enables the state to calculate program completion and job placement rates using administrative data such as unemployment wage records. *This task will be done by the states even though it is in ED’s statutory responsibility to determine whether a program has met the completion and placement requirements. States also appear to have the authority to require institutions to provide information that enables them to make the calculation.*
 - After determining that a program meets the state-reviewed requirements, the state then certifies that determination to ED in a form that includes the program’s name, **6-digit Classification of Instructional Programs code, and Standard Occupational Classification codes for which the program prepares individuals for employment.** The governor must also submit a **signed statement that the program meets, and has met for 12 months immediately preceding the governor’s certification, the above requirements. Governors must also certify that they have considered the cost of the program and the wages of the occupations for which it prepares students prior to the time for which value-added earnings can be computed for that program [as outlined below].**

- Governors of two states may enter into a bilateral agreement allowing students located in one state to enroll via distance education in a WP program offered by an institution located in another state. The occupation for which the WP program prepares students must be on the high-skill, high-wage, or in-demand occupations list of the state where the student is located and the program must meet the WP requirements in the state where the institution is located. In addition, the bilateral agreement must include data-sharing arrangements between the states to help states compute the program's completion and placement rates. *This new provision places additional requirements on WP programs offered through distance learning that fall outside of the NC-SARA process that has facilitated state approval of distance learning programs generally.*

ED Approval of WP Programs

Institutions must submit to ED documentation that:

- The program has met the program length requirements for the 12 months preceding the date on which the institution applied to ED for approval. *This change, and the change noted above regarding the governor's certification that the program has met approval requirements for at least 12 months prior to the governor's approval, are intended to clarify the impression given by the initial version of the draft regulations that a program must have been in existence for one year after the governor approved it in order to be eligible for ED approval. Under the revised regulations, a pre-existing program would be eligible for approval right away so long as it met all the approval requirements for at least a year (stackable, credit transfer, etc.). Even this clarification seems to exceed statutory authority, which simply requires that a program must have been offered by the institution for at least 1 year before it can be approved for WP.*
- The program has a 70% completion rate (within 150% of normal time to completion) and a 70% job placement rate as computed by the state. For award years 2026-27, 27-28, and 28-29 (and in some cases one additional year), the job placement rate is calculated simply as the percentage of students who are employed in the second quarter after exiting the program. In subsequent award years, the job placement rate is calculated as the percentage of students who are employed in an occupation for which the program prepares students or a comparable high-wage, high-skill, or in-demand occupation. **Students that die, experience the onset of a medical condition that prevents employment, become incarcerated, or are called up to active military duty for more than 30 days are not included in either the numerator or denominator of the completion and placement rates. ED has extended the period for the initial, "simplified" completion and job placement rates by 1 year. However, the placement rate during this time frame is based on all program exiters, not just completers as is clearly stated in the statute. ED and DOL indicated that this policy is designed to align WP with WIOA performance**

requirements, and that relevant data is available to states at this time. The job placement rate calculation beyond the first 3 years adds an “in-field” component that is not referenced in the statute. Also, there is no guidance on what constitutes a “comparable” occupation to the one for which the WP program prepares students.

ED may waive some or all the requirements related to the above requirements if the department determines that completion and placement rates will be computed using a different process, or if it determines that a state needs another year to meet the more stringent job placement calculation.

Value-Added Earnings Calculation

The other major determination made by ED under the law is whether a program’s tuition and fees for a given award year are less than the “value-added earnings” of program completers from **a newly defined cohort period that is the award year that ends three full award years prior to the award year for which value-added earnings are calculated.** Value-added earnings are the amount by which median earnings of program completers that are working (adjusted to reflect price levels in a given state or region) from the cohort period (or more as noted below) exceed 150% of the Federal Poverty Line for a single individual. Under the regulations, ED would compute this by sending identifying information for a cohort of students to another federal agency with earnings data, similar to what is done under the Financial Value Transparency/Gainful Employment regulations. **Earnings from the first full tax year following the award year during which the student completed the program would be used for the value-added earnings calculation.**

The draft WP regulations state that, if needed to build sufficiently large cohorts, ED would go back up to an additional 2 years prior to the cohort period to try to get to a cohort of 50 students. If that does not occur, ED would go back one more year – for a total of 4 years of program completers – to try and achieve a cohort of 30 completers. If combining 4 award years does not produce a cohort of 30 completers, value-added earnings would not be calculated for the program that year. And if the cohort of 50 or 30 completers that is submitted to the other federal agency does not produce earnings information for at least 16 students, value-added earnings would not be determined for the program that year.

If more than 50% of the students enrolled in a program are not located in the state in which the institution is located, the earnings for that program will not be adjusted to reflect price levels in the state or region where the institution is located.

ED clarified during negotiations that programs that do not have value-added earnings calculated for a given award year can still be approved for WP. This is important because, since value-added earnings are based on a cohort of Pell Grant recipients, no WP program will have value-added earnings for at least 3 years after being approved.

Losing and Regaining Program Eligibility

A program that fails to meet the requirements overseen by the governor will lose Pell eligibility at the end of the payment period that begins following the date on which the governor acts to withdraw the program's eligibility or fails to reapprove it. Similarly, the program would lose eligibility at the end of payment period that begins after ED determines that a program did not meet the required completion or placement rates (unless the computation of those rates is under appeal). This timing assures that a program will not lose eligibility in the middle of any student's award year. However, a program would lose eligibility for tuitions that exceed value-added earnings at the beginning of the award year following the publication of the value-added earnings. Institutions would be liable for any payment of Pell Grants made during that award year.

If a program loses eligibility based on failing the completion or placement metrics, or an institution voluntarily ends a failing program, that program or a substantially similar one may not regain eligibility for at least two years. A program is substantially similar if it has both the same 4-digit CIP code and identical SOC codes according to a CIP-SOC crosswalk done by a federal agency. A program that loses eligibility based on a determination by a governor may regain eligibility at the time that the governor certifies that the program has again been approved. A program that has lost eligibility because its published tuition exceeded its value-added earnings can regain eligibility by submitting to ED a new certification that the governor has approved the program, documenting that its current tuition and fees that the tuition and fees have been reduced and will remain equal to or less than its value-added earnings, and requesting a recalculation of the value-added earnings to determine whether the program's updated tuition for the next award year are equal to or less than its value-added earnings.

Next Steps

As stated, the Department of Education is expected to release a formal Notice of Proposed Rulemaking early in 2026, with an aim to finalizing the regulation well before the program is scheduled to start on July 1. While changes to the rule are possible, substantial alterations are unlikely. This gives institutions additional time to prepare to apply for their WP programs. It's also worth noting that the upcoming second week of AHEAD Committee discussions will address accountability issues that will touch upon the earnings calculations considered for WP.