

AACC Summary and Analysis of Notice of Propose Rulemaking on Workforce Pell Grants

The Department of Education (ED) has published a [Notice of Proposed Rulemaking](#) on Workforce Pell Grants (WP). Comments are due by April 8 and may be filed at the [Federal Register website](#).

Last December, the Accountability in Education and Access through Demand-driven Workforce Pell (AHEAD) negotiated rulemaking committee reached consensus on draft WP regulations. Given this consensus, ED was bound to use the agreed-upon regulations as the basis for the NPRM. Further changes to the regulations may occur during this next phase of the rulemaking process.

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

The NPRM includes several “Directed Questions” inviting comments on specific topics. These are described below in the corresponding issue area.

Program Length and Student Eligibility

- Individual WP programs must be approved by the Dept. of Education (ED), similarly to how prison education programs need specific approval. This is required by law.
- Only 25% of a WP program may be offered by a non-Title IV-eligible institution, in coordination with the eligible institution. The ability for most other programs to have a non-accredited 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 prohibits 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 proposed rule gives governors much flexibility in how they may fulfill these duties. The regulations do 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 described 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 two 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 can be done through a written agreement, including articulation, transfer-of credit and consortium or partnership agreements, or similar arrangements. *The same institution may award credit for the work done in its WP program.*
- 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.*

Directed Question: ED explains that its intent is to prevent proliferation of online and other programs that do not align with the workforce needs of the state in which a student resides (when that is different from the institution's state). In this Directed Question, ED invites comments on whether the proposed bilateral agreements strike the right balance between preventing programs that do not meet workforce needs and providing institutions adequate flexibility in creating programs. Commenters are invited to propose other types of agreements that might better strike that balance.

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. *Changes made to this section and others during negotiated rulemaking were 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 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 one 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 one 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 three 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 (VAE) 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. VAE is 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 that are in the process of being altered. 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 two 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 four 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 VAE calculated for a given award year can still be approved for WP. This is important because, since VAE are based on a cohort of Pell Grant recipients, no WP program will have VAE for at least 3 years after being approved.

Directed Questions

ED posed several Directed Questions regarding Value-Added Earnings, summarized as follows:

- **Interim VAE Metric**: Since a WP program will not have VAE calculated until four award years after the award year it first becomes eligible, ED is asking whether it should calculate an interim VAE metric, and if so whether institutions should face any consequences for failing the interim measure. ED also seeks input on what data is available to compute an interim VAE.
- **Exclusion of Certain Students in VAE Cohort**: In this question, ED asks whether students other than those described in the draft regulations, such as students who have since died, should be excluded from the cohort for which VAE are calculated. Specifically, ED seeks comment on whether students who are enrolled in college at the time that VAE are calculated should be excluded. ED notes that such students are excluded from similar cohorts in other regulations, but that there are also good reasons to include them. This topic was the subject of much discussion during negotiated rulemaking.
- **Process for Combining Multiple Cohorts**: ED seeks comment on whether the regulations should allow for going back more than three additional award years to establish a cohort of at least 50 completers, as do the accountability requirements discussed in the second week of the negotiated rulemaking. ED notes that going back more than 3 additional years would result in VAE being calculated for more programs.
- **Programs Serving Out-of-State Students**: As noted above, the VAE for programs where greater than 50% of students are from a different state than the institution's would not be adjusted for state and regional price levels. ED seeks comment on whether there is a better approach to this issue and what the appropriate data source is for determining students' locations.

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, comments are due on the Notice of Proposed Rulemaking on April 8. While changes to the rule are possible, substantial alterations are unlikely. This gives institutions additional time to work with state officials as they determine their WP policies, and to prepare to apply for individual program WP eligibility.