

Financial Assistance for Students with Intellectual Disabilities

Source: 74 FR 55947, Oct. 29, 2009, unless otherwise noted.

§668.230 Scope and purpose.

This subpart establishes regulations that apply to an institution that offers comprehensive transition and postsecondary programs to students with intellectual disabilities. Students enrolled in these programs are eligible for Federal financial assistance under the Federal Pell Grant, FSEOG, and FWS programs. Except for provisions related to needs analysis, the Secretary may waive any Title IV, HEA program requirement related to the Federal Pell Grant, FSEOG, and FWS programs or institutional eligibility, to ensure that students with intellectual disabilities remain eligible for funds under these assistance programs. However, unless provided in this subpart or subsequently waived by the Secretary, students with intellectual disabilities and institutions that offer comprehensive transition and postsecondary programs are subject to the same regulations and procedures that otherwise apply to Title IV, HEA program participants. (Authority: 20 U.S.C. 1091)

§668.231 Definitions.

The following definitions apply to this subpart:

(a) Comprehensive transition and postsecondary program means a degree, certificate, non degree, or non certificate program that—

- (a.1) Is offered by a participating institution;
- (a.2) Is delivered to students physically attending the institution;
- (a.3) 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;
- (a.4) Includes an advising and curriculum structure;
- (a.5) Requires students with intellectual disabilities to have at least one-half of their participation in the program, as determined by the institution, focus on academic components through one or more of the following activities:
 - (a.5.1) Taking credit-bearing courses with students without disabilities.
 - (a.5.2) Auditing or otherwise participating in courses with students without disabilities for which the student does not receive regular academic credit.
 - (a.5.3) Taking non-credit-bearing, non degree courses with students without disabilities.
 - (a.5.4) Participating in internships or work-based training in settings with individuals without disabilities; and
 - (a.5.5) Provides students with intellectual disabilities opportunities to participate in coursework and other activities with students without disabilities.

(b) Student with an intellectual disability means a student—

- (b.1) With mental retardation or a cognitive impairment characterized by significant limitations in—
 - (b.1.1) Intellectual and cognitive functioning; and
 - (b.1.2) Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(b.2) Who is currently, or was formerly, eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401), including a student who was determined eligible for special education or related services under the IDEA but was home-schooled or attended private school. (Authority: 20 U.S.C. 1091, 1140)

§668.232 Program eligibility.

An institution that offers a comprehensive transition and postsecondary program must apply to the Secretary to have the program determined to be an eligible program. The institution applies under the provisions in 34 CFR 600.20 for adding an educational program, and must include in its application—

- (a)** A detailed description of the comprehensive transition and postsecondary program that addresses all of the components of the program, as defined in §668.231;
- (b)** The institution's policy for determining whether a student enrolled in the program is making satisfactory academic progress;
- (c)** The number of weeks of instructional time and the number of semester or quarter credit hours or clock hours in the program, including the equivalent credit or clock hours associated with noncredit or reduced credit courses or activities;
- (d)** A description of the educational credential offered (e.g., degree or certificate) or identified outcome or outcomes established by the institution for all students enrolled in the program;
- (e)** A copy of the letter or notice sent to the institution's accrediting agency informing the agency of its comprehensive transition and postsecondary program. The letter or notice must include a description of the items in paragraphs (a) through (d) of this section; and
- (f)** Any other information the Secretary may require. (Approved by the Office of Management and Budget under control number 1845-NEW4) (Authority: 20 U.S.C. 1091)

§668.233 Student eligibility.

A student with an intellectual disability is eligible to receive Federal Pell, FSEOG, and FWS program assistance under this subpart if—

- (a)** The student satisfies the general student eligibility requirements under §668.32, except for the requirements in paragraphs (a), **(e)** and **(f)** of that section. With regard to these exceptions, a student—
 - (e.1) Does not have to be enrolled for the purpose of obtaining a degree or certificate;
 - (e.2) Is not required to have a high school diploma, a recognized equivalent of a high school diploma, or have passed an ability to benefit test; and
 - (e.3) Is making satisfactory progress according to the institution's published standards for students enrolled in its comprehensive transition and postsecondary programs;
- (b)** The student is enrolled in a comprehensive transition and postsecondary program approved by the Secretary; and
- (c)** The institution obtains a record from a local educational agency that the student is or was eligible for special education and related services under the IDEA. If that record does not identify the student as having an intellectual disability, as described in paragraph (a.1) of the definition of a student with an intellectual disability in §668.231, the institution must also obtain documentation establishing that the student has an intellectual disability, such as—
 - (c.1) A documented comprehensive and individualized psycho-educational evaluation and diagnosis of an intellectual disability by a psychologist or other qualified professional; or
 - (c.2) A record of the disability from a local or State educational agency, or government agency, such as the Social Security Administration or a vocational rehabilitation agency, that identifies the intellectual disability