

# Program Eligibility, Written Arrangements, & Distance Education

*Many of the program eligibility requirements are derived from the institutional definitions that we discussed in Chapter 1. However, bear in mind that institutional eligibility does not mean that all programs at the school are eligible. A financial aid office should have a process to confirm the eligibility of an educational program before paying any FSA funds to students enrolled in that program, and should promptly report changes to the Department following the procedures in Chapter 5.*

## DETERMINING PROGRAM ELIGIBILITY

Because a school's eligibility does not necessarily extend to all its programs, the school must ensure that a program is eligible before awarding FSA funds to students in that program. The school is responsible for determining that a program is eligible.

In addition to determining that the program meets the eligible program criteria given in this chapter, the school should make certain that the program is included under the notice of accreditation from a nationally recognized accrediting agency (unless the agency does not require that particular programs be accredited).

The school should also make certain that it is authorized by the appropriate state to offer the program (if the state licenses individual programs at postsecondary institutions). In some instances a school or program may need a general authorization as well as licensure for a specific program approval. (Please see the chart on *Eligible Institutions* and the discussion under *Legal authorization by a state in Chapter 1*.)

A school's eligibility extends to all eligible programs and locations that were identified on the school's E-App, unless the School Participation Team (SPT) determines that certain programs or locations did not meet the eligibility requirements or it has not approved the expansion for purposes of FSA eligibility. In general, the school's eligible nondegree programs and locations are specifically named on the *Eligibility and Certification Approval Report* (ECAR). Additional locations and programs may be added later. Once the SPT has approved the program/location, it will notify the school and you can print out the updated ECAR.

If a program offered through telecommunications or continuing education meets the definition of an eligible program, students enrolled in that program must be considered for FSA program assistance on the same basis as students enrolled in eligible programs offered through traditional modes. With some limitations, if a program offered through correspondence

## CHAPTER 2 HIGHLIGHTS

- Determining program eligibility
- Basic types of eligible programs
  - at an institution of higher education
  - at proprietary or postsecondary vocational institutions
- Programs leading to gainful employment
- Criteria for other program types
  - Programs for: students with intellectual disabilities; TEACH Grants; ESL; direct assessment; study abroad; flight school
- Written arrangements between schools
- Distance education & correspondence study
- Clock-hour/credit-hour conversions

## Related topics

- Eligibility requirements for specific educational programs—*Volume 1, Chapter 1*
- Types of educational programs defined for eligible institutions—*Volume 2, Chapter 1*
- Updating the E-App for changes to programs and locations—*Volume 2, Chapter 5*

## Program eligibility

34 CFR 668.8  
34 CFR 691.2(b)

## Program eligibility and school & student eligibility

To qualify as an eligible institution, a school must offer at least one eligible program. Not all programs at an eligible institution must be eligible, but at least one of the programs at the school must meet the eligible program requirements.

Except for students enrolled in certain preparatory or teacher certification courses, a student must be enrolled in an eligible program to receive FSA funds (for more information, see *Volume 1, Chapter 1*).

## Recognized occupation

All non-degree programs must prepare students in that program for gainful employment in a specific recognized occupation. (This requirement also applies to degree programs at proprietary schools.)

A “recognized occupation” is one that is:

- identified by a Standard Occupational Classification (SOC) code established by the Office of Management and Budget or an Occupational Information Network O\*NET–SOC code established by the Department of Labor and available at O\*NET OnLine, at <http://www.onetonline.org/>, or its successor site, or
- considered by ED, in consultation with the Department of Labor, to be a recognized occupation.

Please note that if the title of your program does not clearly indicate the specific occupation that the program prepares the student for, you must provide that information on the school’s E-App.

meets the definition of an eligible program, students enrolled in that program will be considered eligible (see *Distance education and correspondence study* in this chapter).

## BASIC TYPES OF ELIGIBLE PROGRAMS

### *Eligible programs at an institution of higher education*

At a school that qualifies as a public or private nonprofit institution of higher education, the following types of programs are eligible for FSA purposes:

- a program that leads to an associate, bachelor’s, professional, or graduate degree.
- a program of at least 2 academic years in duration that is acceptable for full credit toward a bachelor’s degree,
- a program of at least 1 academic year in duration that leads to a certificate or other nondegree recognized credential, and prepares students for gainful employment in a recognized occupation, or
- a certificate or diploma training program that is less than 1 year (if the school also meets the definition of a postsecondary vocational institution).

Note that a nondegree program at a public or private nonprofit institution is subject to the rules for a “gainful employment program” (unless the program is at least a 2-year transfer program). Gainful employment programs are explained below.

### *Eligible programs at a proprietary or postsecondary vocational institution*

There are three types of eligible programs at a proprietary institution or a postsecondary vocational institution. All of these programs must have a specified number of weeks of instruction, and must provide training that prepares a student for gainful employment in a recognized occupation.

- The first type of eligible program must provide at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of undergraduate instruction offered during a minimum of 15 weeks of instruction. The program may admit as regular students persons who have not completed the equivalent of an associate degree.
- The second type of eligible program must provide at least 300 clock hours, 8 semester hours, or 12 quarter hours of instruction offered during a minimum of 10 weeks of instruction. The program must be a graduate or professional program or must admit as regular students only persons who have completed the equivalent of an associate degree.
- The third type of program is known as the short-term program. A short-term program qualifies for the Direct Loan program only. This type of program must provide at least 300 but less than 600 clock hours of instruction offered during a minimum of 10 weeks of instruction. The program must admit as regular students some

## Credit & clock hours

Later in this chapter is a discussion of how program length is measured in credit and clock hours.

## Other eligible programs

Recent legislation adds several additional categories of eligible programs:

- a direct assessment program approved by the Department (discussed later in this chapter),
- a comprehensive transition and postsecondary program approved by the Department (discussed later in this chapter), and
- a program leading to a baccalaureate degree in liberal arts (as defined in 34 CFR 600.5(e)), at a proprietary school that is accredited by a recognized regional accrediting agency or association. (The school must have been continuously accredited by a regional accrediting agency since at least October 1, 2007, and have provided the program continuously since January 1, 2009.)

Higher Education Act of 2008  
34 CFR 668.8

persons who have not completed the equivalent of an associate degree.

There are several additional requirements that a short-term program must meet. The program must—

- have verified completion and placement rates of at least 70% (see chart),
- not be more than 50% longer than the minimum training period required by the state or federal agency, if any, for the occupation for which the program of instruction is intended, and
- have been in existence for at least one year.

## Completion & placement rates for short-term programs

For the purpose of demonstrating compliance with the standards for short-term (300–600 clock-hour) programs, a school must calculate the completion and placement rates for the award year. The independent auditor who prepares the school's compliance audit report must attest to the accuracy of the school's calculation of completion and placement rates. See 34 CFR 668.8(e), (f), and (g)

Number of regular students who earned credentials for successfully completing the program within 150% of the length of the program

Number of regular students enrolled in the program for the award year

– number of regular students who withdrew with a 100% refund of tuition and fees

– number of regular students enrolled at the end of the award year

= Completion Rate

Number of students who obtained employment\* within 180 days of receiving credential and who are employed (or have been employed) for at least 13 weeks following receipt of credential

Number of regular students who received credential for successfully completing the program during the award year

= Placement Rate

\*in the recognized occupation for which they were trained or in a related comparable occupation

The school must document the employment of any student it includes as employed in the placement rate calculation. Examples of such documentation include, but are not limited to, a written statement from the employer, signed copies of state or federal income tax forms, or written evidence of payment of Social Security taxes.

The school must reasonably determine whether a related occupation is comparable. For instance, for a student who was trained as an auto mechanic, it is reasonable to determine that a job as a boat mechanic is comparable. However, for a person trained in retail sales management, a counter-service job at a fast-food restaurant is not comparable.

## Requirements for gainful employment programs

- Requirement to notify the Department at least 90 days in advance of adding a gainful employment program; see *Chapter 5*.
- Disclosure (student information); see *Chapter 6*.
- Reporting information to ED on gainful employment programs at your school; see *Chapter 8*.

## Summary of gainful employment programs

- Virtually all educational programs offered by for-profit institutions are gainful employment programs.
- All educational programs that lead to a degree awarded by a public or private non-profit institution are not gainful employment programs.
- Virtually all non-degree educational programs awarded by a public or private non-profit institution are gainful employment programs.

Gainful Employment Electronic Announcement #11, June 24, 2011

## Gainful employment guidance

Gainful Employment Electronic Announcement #11 provides a series of questions that can be used to help determine if an educational program is a gainful employment program. See also Announcement #19 and Question G-Q9 on the FAQ page. Continuing updates on this topic will be posted on the Gainful Employment Information Page on IFAP.

## Teacher certification update

Note that the description of teacher certification programs in GEN-11-10 was amended on May 20, 2011. This announcement also clarified that—

- Teacher certification that consists of a collection of course work that is required for a student to receive a state professional teaching credential or certification but does NOT lead to the awarding of a degree or certificate by the institution is not a GE Program.
- However, a teacher certification program that does lead to the awarding of a certificate or other non-degree (for a for-profit institution, also a degree) credential is a GE Program, and the institution must comply with all of the GE Program regulatory requirements.

Gainful Employment Electronic Announcement #3, May 20, 2011

Note that all degree and nondegree programs at a proprietary institution are subject to the rules for a “gainful employment program,” except for the liberal arts programs described in the sidebar. Gainful employment programs are explained below.

**NEW**

## PROGRAMS LEADING TO GAINFUL EMPLOYMENT **NEW**

In order to be eligible for funding under the FSA programs, an educational program must lead to a degree (associate, bachelor’s, graduate, or professional) or prepare students for “gainful employment in a recognized occupation.” In addition, virtually all programs—degree and nondegree—offered by proprietary institutions must prepare students for “gainful employment in a recognized occupation.”

Collectively, we refer to these programs, all nondegree educational programs offered by public and nonprofit institutions and virtually all academic programs offered by proprietary institutions, as “gainful employment programs” (or “GE Programs”).

Many institutions that participate in the FSA programs, even those that are public or nonprofit and that predominantly offer degrees, will likely have one or more gainful employment programs. In fact, fewer than 1,000 out of the approximately 6,000 institutions that are currently participating in the FSA programs have nogaful employment programs. Therefore, all institutions must be aware of the new regulatory requirements and the information in this letter to ensure that they will be in compliance with the new gainful employment regulations.

The following provides specific information, presented separately for different types of institutions, on the educational programs that are considered to be gainful employment programs and, therefore, subject to the new rules relating to reporting, disclosures, and the addition of new gainful employment programs.

Certain disclosure and reporting requirement apply to gainful employment programs (see sidebar).

### *Domestic proprietary institutions & domestic postsecondary vocational institutions*

Gainful Employment Programs—The following educational programs offered by these institutions are gainful employment programs subject to the new regulations:

- Undergraduate and graduate degree programs.
- Certificate programs. Certificate programs include undergraduate certificate programs, post-baccalaureate certificate programs, graduate certificate programs, and postgraduate certificate programs.
- Teacher certification programs that result in a certificate awarded by the institution (see sidebar).

- Approved “Comprehensive Transition Programs” for students with intellectual disabilities.

Not Gainful Employment Programs—The following educational programs offered by these institutions are not subject to the new GE Program regulations:

- Programs that lead to a baccalaureate degree in liberal arts if the institution has been accredited by a regional accrediting agency since October 2007 and the institution has offered the program since January 2009.
- Preparatory courses of study that provide course work necessary for enrollment in an eligible program.

### *Domestic public and domestic private nonprofit institutions of higher education*

Gainful Employment Programs—The following educational programs offered by these institutions are gainful employment programs subject to the new regulations:

- Nondegree programs, including all certificate programs. Certificate programs include undergraduate certificate programs, postbaccalaureate certificate programs, graduate certificate programs, and postgraduate certificate programs. Note that awarding students one or more certificates as part of a degree program does not create GE programs based upon the awarding of the certificate(s).
- Teacher certification programs that result in a certificate awarded by the institution (see sidebar).
- Approved “Comprehensive Transition Programs” for students with intellectual disabilities.

Not Gainful Employment Programs—The following educational programs offered by these institutions are not subject to the new gainful employment program regulations:

- Programs that lead to a degree, including associate’s degrees, bachelor’s degrees, graduate degrees, and professional degrees.
- Programs that are at least two years in length that are fully transferable to a bachelor’s degree program.
- Preparatory courses of study that provide course work necessary for enrollment in an eligible program.

### *Foreign proprietary institutions*

Gainful Employment Programs—The only programs at foreign proprietary institutions that are eligible for the FSA loan programs are degree programs in medicine, nursing, and veterinary science. These programs offered at these institutions are gainful employment programs subject to the new requirements.

### **Degree program where student receives certificate in addition to degree**

If students are enrolled in only the degree program and are not also enrolled in a separate certificate program, it is the degree program that should be evaluated using the guidance in Gainful Employment Electronic Announcement #11.

If the institution also offers a separate certificate program, students enrolled in the degree program only should not be included in either the disclosures or reporting for the separate certificate program.

If students are enrolled in a certificate program, even if the enrollment is concurrent with enrollment in the degree program, those students must be included in the certificate gainful employment program’s reporting and disclosures, and also in the degree program’s reporting and disclosures if the degree program is considered a gainful employment program under Gainful Employment Electronic Announcement #11.

If a significant number of the students enrolled in the degree program are awarded only the certificate and not the degree, the students enrolled in the degree program must be included in the disclosures and reporting for a certificate GE Program. If the institution does not offer a separate certificate program, it must, for gainful employment purposes, treat the degree program as a gainful employment certificate program for which the institution must comply with the gainful employment regulatory requirements. Gainful Employment Electronic Announcement #12

### Applying for eligibility for a transition program

When applying to the Department for eligibility for a comprehensive transition program, a school must follow the procedures in 34 CFR 600.20 and provide the information described in 34 CFR 668.232.

Not Gainful Employment Programs—None.

#### *Foreign public and nonprofit institutions*

Gainful Employment Programs—Same as domestic public and domestic nonprofit institutions, as provided previously.

Not Gainful Employment Programs—Same as domestic public and domestic nonprofit institutions, as provided previously.

### Definition of intellectual disability

A student with an intellectual disability means a student

1) with mental retardation or a cognitive impairment characterized by significant limitations in—

(i) Intellectual and cognitive functioning; and  
(ii) Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(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.

### ADDITIONAL ELIGIBILITY REQUIREMENTS

There are additional FSA program eligibility requirements for specific educational programs. For example, only undergraduate educational programs are eligible under the Pell Grant and FSEOG programs. Correspondence programs are not eligible unless they meet the general requirements for an eligible program and are required for the student’s regular program of study leading to a degree.

#### *Transition programs for students with intellectual disabilities*

A student with an intellectual disability who enrolls in a comprehensive transition and postsecondary program at a school that participates in the FSA programs is eligible for nonloan assistance (Pell Grants, FSEOG, and Federal Work Study). As discussed in *Volume 1*, the student is exempt from several student eligibility requirements.

A comprehensive transition and postsecondary program is a degree, certificate, nondegree, or noncertificate program that is designed to support students with intellectual disabilities who want to continue their instruction (academic, career and technical, and independent living) at a postsecondary school in order to prepare for gainful employment.

### ACG/SMART grants

Note that references to the Academic Competitiveness Grant (ACG) and the National Science and Mathematics Access to Retain Talent (National SMART) Grant programs have been removed—these programs are not authorized beyond the 2010–2011 award year.



The program must

- be delivered to students physically attending the institution,
- include an advising and curriculum structure, and
- provide students with intellectual disabilities opportunities to participate in coursework and other activities with students without disabilities.

Such programs must require students with intellectual disabilities to have at least 1/2 of their participation in the program, as determined by the school, focus on academic components through one or more of the following activities:

- taking credit-bearing courses with students without disabilities.
- auditing or otherwise participating in courses with students without disabilities for which the student does not receive regular academic credit,
- taking non-credit-bearing, nondegree courses with students without disabilities, and,
- participating in internships or work-based training in settings with individuals without disabilities.

A school that offers a comprehensive transition and postsecondary program must apply to the Department to have the program determined to be an eligible program.

### *Educational programs eligible for TEACH Grants*

To qualify as an eligible program for TEACH Grants, an educational program must be a program of study that

- is designed to prepare an individual to teach as a highly-qualified teacher in a high-need field and leads to a baccalaureate or master's degree (including 2-year programs of study that are acceptable for full credit toward a baccalaureate degree), or
- is a post-baccalaureate program of study for students who have completed a baccalaureate degree but need to take additional state-required courses for teacher certification or licensure.

A post-baccalaureate program consists of courses required by a state in order for a student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that state. It must be a program that is treated as an undergraduate program for FSA purposes, and may not lead to a graduate degree. In addition, note that a program of instruction offered by a TEACH Grant-eligible institution that offers a baccalaureate degree in education cannot be considered a postbaccalaureate program. For information on TEACH program requirements as a student eligibility issue, see *Volume 1, Chapter 6*.

### *ESL Programs*

Students enrolled in a program that consists solely of English as a Second Language (ESL) instruction are eligible for FSA funds only from the Pell Grant program. An ESL program must meet the general requirements for an eligible program (for example, it must lead to a degree or other credential). Moreover, an ESL program may admit only students who need instruction in English to be able to use the knowledge, training, or skills they already have. The school must document its determination that the ESL instruction is necessary for each student enrolled.

A school that wishes to award FSA assistance to students enrolled in an ESL program must request an eligibility determination for the program from the Department.

### *Direct assessment programs*

Instead of using credit hours or clock hours as a measure of student learning, some instructional programs use direct assessment of student learning, or recognize the direct assessment of student learning by others. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios. The assessment must be consistent with the accreditation of the institution or program using the results of the assessment.

A school that wishes to award FSA funds in a program using direct assessment must apply to the the Department for approval of the program, using the E-App. The application must specify the equivalent number of

### **TEACH Grant program**

The **Teacher Education Assistance for College and Higher Education (TEACH) Grant** program was created by the College Cost Reduction and Access Act of 2007 (CCRAA).  
34 CFR Part 686

### **Program eligibility vs. student eligibility in TEACH**

The preamble to the June 23, 2008 TEACH regulations draws a distinction between *program eligibility* (where the school may identify, within the parameters of the regulations, the scope of school programs that are TEACH Grant-eligible) and *student eligibility* (where the school must adhere to the eligibility criteria in the regulations);

The preamble further states: Ultimately, it is up to the institution to decide, based on regulatory requirements, what programs are TEACH Grant-eligible and when a student is considered to be accepted into a TEACH Grant-eligible program.

For instance, a school can determine that only some of the programs for which it currently awards other FSA funds are also eligible for TEACH, even if some programs it does not wish to make TEACH Grant-eligible meet the regulatory definition.

### **Additional ESL considerations**

→ A school must define the effect of any noncredit remedial courses (including ESL courses) on a student's academic progress. See Chapter 10 in this Volume.

→ Awarding FSA loans to a student over a series of semesters for ESL or remedial coursework could potentially exhaust the student's eligibility under the aggregate loan limits before the student completes his/her educational program. See *Volume 1, Chapter 1*.

### **Direct Assessment programs**

FSA eligibility for direct assessment programs was established by the Higher Education Reconciliation Act of 2005

For application procedures and other information, see 34 CFR 668.10.

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## Direct assessment as a measure of learning

Direct assessment of student learning means a measure by the institution of what a student knows and can do in terms of the body of knowledge making up the educational program. These measures provide evidence that a student has command of a specific subject, content area, or skill or that the student demonstrates a specific quality such as creativity, analysis or synthesis associated with the subject matter of the program.

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## Academic year & weeks

An academic year in a direct assessment program is a period of instructional time that consists of a minimum of 30 weeks of instructional time. A week of instructional time in a direct assessment program is any 7-day period in which at least 1 day of educational activity occurs.

Educational activity in a direct assessment program includes regularly scheduled learning sessions, faculty-guided independent study, consultations with a faculty mentor, development of an academic action plan addressed to the competencies identified by the school, or, in combination with any of the assessments.

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## Independent study

For purposes of direct assessment programs, independent study occurs when a student follows a course of study with predefined objectives but works with a faculty member to decide how the student is going to meet those objectives. The student and faculty member agree on what the student will do (e.g., required readings, research, and work products), how the student's work will be evaluated, and on what the relative timeframe for completion of the work will be. The student must interact with the faculty member on a regular and substantive basis to assure progress within the course or program.

credit or clock hours for a direct assessment program (or portion of the program, as applicable). (The clock or credit hours will be used as the basis for the FSA award calculations described in *Volume 3, Chapter 1*.) As a part of its application, the school must explain how it determined the equivalent number of credit or clock hours for the program.

A direct assessment program may use learning resources (e.g., courses or portions of courses) that are provided by entities other than the school providing the direct assessment program without regard to the limitations on contracting for part of an educational program (see *Written arrangements between schools*).

FSA funds may be awarded only for learning that results from instruction provided, or overseen, by the school. FSA funds cannot be awarded for any portion of the program based on study or life experience prior to enrollment in the program, or based on tests of learning that are not associated with educational activities overseen by the school.

Several types of programs and coursework that might otherwise be eligible for FSA purposes are not eligible if they involve direct assessment:

- Programs at foreign schools.
- Preparatory coursework required for entry into an eligible program (see *Volume 1, Chapter 6*).
- Courses necessary for an elementary or secondary school teaching credential or certificate (see *Volume 1, Chapter 6*).
- Remedial coursework measured through direct assessment.

However, note that remedial instruction offered in credit or clock hours in conjunction with a direct assessment program is eligible for FSA funds.

If the school plans to change any aspect of the program described in the application, it must obtain prior approval from the Department by reapplying.

## Study abroad programs

A participating institution may establish programs of study abroad for which its students are eligible to receive assistance through the FSA programs. A study abroad program is an eligible program if—

- students studying abroad concurrently remain enrolled at their eligible home school; and
- the eligible home school awards academic credit for the program of study abroad.

While the study abroad program must be considered part of the student's eligible program, it does not have to be a required part of the student's eligible degree program in order to be an eligible study abroad program. However, a school must have a written agreement with the institution offering the study abroad program, or with an entity representing that institution (see next section). Moreover, in the information it provides to students about a study abroad program, a school must inform students about the availability of FSA assistance.

### Flight school programs

A flight school program must maintain current valid certification by the Federal Aviation Administration to be eligible.

## WRITTEN ARRANGEMENTS BETWEEN SCHOOLS

Under a consortium or contractual agreement (including those for study-abroad programs), the home school must give credit for courses taken at the other schools on the same basis as if it provided the training itself. The underlying assumption of such an agreement is that the home school has found the other school's or organization's academic standards to be equivalent to its own, and a completely acceptable substitute for its own instruction.

A home school may decline to give credit for courses in which a student earns a grade that is not acceptable at the home school even though the host school has a policy of accepting that grade for its resident students. In addition, even though grades received through consortium or contractual agreements do not have to be included in the calculation of the student's grade point average (GPA), they must be included when calculating the quantitative component (the percentage of credits earned vs. attempted) of a student's satisfactory academic progress.

If not written for an individual student or group of students, agreements between schools can go on indefinitely. These agreements do not have to be renewed unless the terms of the agreement change.

A school must provide enrolled and prospective students with a description of the written arrangements it has entered into, including—

- The portion of the educational program that the school that grants the degree or certificate is not providing;
- The name and location of the other schools or organizations that are providing the portion of the educational program that the institution that grants the degree or certificate is not providing;
- The method of delivery of the portion of the educational program that the school that grants the degree or certificate is not providing; and
- Estimated additional costs students may incur as the result of enrolling in an educational program that is provided, in part, under the written arrangement.

### Consortium Agreement

A consortium agreement can apply to all FSA programs. Under a consortium agreement, students may take courses at a school other than the home school and have those courses count toward the degree or certificate at the home school. A student can only receive FSA assistance for courses that are applicable to the student's certificate or degree program.

### Flight school program

34 CFR 668.8(h)(i)

### Arrangements

34 CFR 668.5

### Definitions

**Consortium agreement**—a written agreement between two or more eligible schools.

**Contractual agreement**—a written agreement between an eligible school and an ineligible school.

**Home school**—the school where the student is enrolled in a degree or certificate program.

**Host school**—the school where the student is taking part of his or her program requirements through either a consortium or contractual agreement.

**Two plus two program**—a partnership between a two-year and four-year school that facilitates a student's completing the last two years of the student's four-year degree.

### Requirement to inform students of arrangement

34 CFR 668.43(a)(12)

### Contents of a consortium agreement

The Department does not dictate the format of the agreement (which can be executed by several different offices) or where the agreement is kept. However, the following information should be included in all agreements:

- the school that will grant the degree or certificate;
- the student's tuition, fees, and room and board costs at each school;
- the student's enrollment status at each school;
- the school that will be responsible for disbursing aid and monitoring student eligibility; and
- the procedures for calculating awards, disbursing aid, monitoring satisfactory progress and other student eligibility requirements, keeping records, and returning funds in the event the student withdraws.



### Written arrangements between schools under same ownership or control

If the written arrangement is between 2 or more eligible institutions that are owned or controlled by the same individual, partnership, or corporation, the Department considers the educational program to be an eligible program if—

- The educational program offered by the school that grants the degree or certificate otherwise satisfies the requirements of an eligible program (described in this chapter); and
- The school that grants the degree or certificate provides more than 50% of the educational program.



A consortium agreement can be a blanket agreement between two or more eligible schools, or it can be written for a specific student. Such an agreement is often used when a student takes related courses at neighboring schools or when a student is enrolled in an exchange program with another eligible school for a term or more. A school could have

- one agreement for each student;
- a separate agreement with each host school; or
- a blanket agreement with a group of schools.

In a consortium agreement there is no limit on the portion of the eligible program that may be provided by eligible schools other than the home school. Agreement contents can vary widely and will depend upon the interests of the schools involved and the accrediting or state agency standards. (See sidebar for required contents of an agreement.)

Usually, the home school is responsible for disbursing funds, but if the student is enrolled for a full term or academic year at the host school, it may be easier for the host school to monitor the student’s eligibility and make payments.

When there is a written arrangement between eligible schools, any of the schools participating in the written arrangement may make FSA calculations and disbursements without that school being considered a third-party servicer. This is true even if the student is not currently taking courses at the school that is calculating and disbursing the aid.

### Study abroad references

- Arrangements with a study abroad organization  
34 CFR 668.5
- Eligibility of students in study abroad program  
34 CFR 668.39

### Eligible study-abroad students entitled to FSA

Some eligible students have had problems receiving FSA funds for study abroad or domestic-exchange programs because neither the student’s home school nor the school the student was temporarily attending documented that the student was enrolled in an eligible program of study. These circumstances have caused otherwise eligible students to be denied financial assistance at both schools.

The law states that a student participating in a study abroad program approved by the home school is eligible for FSA funds, regardless of whether the program is required for the student’s regular, eligible program of study, as long as

- the student is an eligible regular student enrolled in an eligible program at the home school; and
- the eligible school approves the program of study abroad for academic credit.

The Program Participation Agreement (PPA) requires participating schools to establish procedures that ensure that its students participating in study abroad programs receive the FSA funds to which they are entitled.

The school that disburses an FSA award is responsible for maintaining information on the student’s eligibility, how the award was calculated, what money has been disbursed, and any other documentation associated with the award (even if some of that documentation comes from other schools). Moreover, the school paying the student must return FSA funds if required (for example, in refund/return or overpayment situations). For details on how agreements affect Pell Grant calculations, see *Volume 3, Chapter 3*.

### Contractual Agreement

Provided the limitations in the following paragraphs are adhered to, an eligible institution may enter into a contractual agreement with an ineligible school or organization under which the ineligible school or organization provides part of the educational program of students enrolled at the eligible school.

An eligible school is prohibited from entering into a contract with an ineligible school or organization whose—

- eligibility or certification to participate in the FSA programs has been terminated or revoked by the Department, or
- application for certification or re-certification to participate in the FSA programs denied by the Department.



Similarly, an eligible school is prohibited from entering into a contract with an ineligible school or organization that has voluntarily withdrawn

from participation in the FSA programs under a termination, show-cause, suspension, or similar type proceeding initiated by the school's state licensing agency, accrediting agency, guarantor, or by the Department.

Under a contractual agreement, the eligible school is always the home school. The home school performs all the aid processing and disbursement functions for its students attending the ineligible school or organization. The home school is responsible for maintaining all records necessary to document student eligibility and receipt of aid (see *Chapter 7*).

For schools in a contractual agreement, there is a limit on the portion of the program that can be offered by the ineligible school. If both the home and ineligible schools are owned or controlled by the same individual, partnership, or corporation, no more than 25% of the educational program can be provided by the ineligible school. If the two schools are separately owned or controlled, the ineligible school can provide up to 50% of the educational program. However, in the case of separately owned schools, if the contracted portion is more than 25% of the program, the home school's accrediting agency or state agency (in the case of a public postsecondary vocational institution) must determine and confirm in writing that the agreement meets its standards for contracting out education services.

### *Study Abroad or Domestic Exchange Programs*

A study abroad program must be part of a written contractual or consortium agreement between two or more schools. The study abroad program does not have to be a required part of the eligible program at the home school in order for the student to be eligible to receive FSA funds, but the credits earned through the study abroad or exchange program must be acceptable toward graduation in the student's program by the home school.

When there is a written arrangement between eligible schools, any of the schools participating in the written arrangement may make FSA program calculations and disbursements without that school being considered a third-party servicer. This is true even if the student is not taking courses at the schools that is calculating and disbursing the aid.

Students enrolled in study abroad programs with costs of attendance higher than those of the home school should have those costs reflected in the cost of attendance on which their aid is based. This may result in a student being eligible for additional FSA funds, including a higher Pell award, not to exceed the Pell award maximum.

### *Types of Study-Abroad Programs*

Study abroad program configurations include:

A home school sends students to a study abroad program at an eligible or ineligible foreign (host) school. The home school must have a consortium or contractual agreement with the foreign school.

A home school allows a student to complete a portion of the student's program at an eligible host school in the United States and that host school offers a study abroad program in conjunction with either an eligible or ineligible foreign school.

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### Changes to distance education & telecommunications

Pursuant to the HERA 2005, telecommunications courses are no longer considered correspondence courses, thus the 50% limits on correspondence courses and students no longer apply.

The definition of “correspondence course” was revised and a new definition of “telecommunications course” was added to 34 CFR 600.2.

*Federal Register*, August 9, 2006.

Pursuant to HEOA 2008, the definition of “telecommunications” was removed from 34 CFR 600.2 and the statutory definition of “distance education” was added.

*Federal Register*, October 27, 2009.

- The home and host schools in the United States must have a consortium agreement.
- The host school in the United States must have a consortium or contractual agreement with the foreign school.

A home school has a written arrangement with a study abroad organization that represents one or more foreign schools instead of a separate agreement directly with each foreign school that its students are attending. For purposes of administering the FSA programs, the written agreement between the eligible institution and the study abroad organization must adequately describe the duties and responsibilities of each entity and meet the requirements of the regulations.

A variant of the study abroad program occurs when a home school sends faculty and students to a foreign site. This does not represent a consortium or contractual study abroad program. Rather, the foreign site is considered an additional location under 34 CFR 600.32.

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### State process for complaints

Note that under 34 CFR 668.43(b) you must provide state contact information to students or prospective students for filing complaints in each state in which you operate. (See *Chapter 6* for the school consumer information requirement.)

## DISTANCE EDUCATION & CORRESPONDENCE STUDY

Schools use distance education and correspondence courses to respond to students’ needs for alternatives to the schedules and locations at which courses traditionally have been offered. A school may not refuse to provide FSA funds to a student because he or she is enrolled in correspondence or distance education courses unless the courses are not part of an eligible program.

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### Accreditation for distance education

The Department reminded schools in September 2006 that distance education programs must be evaluated by an accrediting agency that is recognized by ED for the purpose of evaluating distance education. This letter included specific instructions on notifying ED if the school intended to seek new accreditation, and updating the E-App to reflect changes to the school’s accreditation. GEN-06-17

Some participating institutions contract with distance education providers that are not eligible to participate in the FSA programs. These participating institutions must ensure that they do not exceed the limitations on contractual arrangements (see previous section).

#### *Distance Education*

A distance education program at a domestic school is considered an eligible FSA program if it has been accredited by an accrediting agency recognized by the Department for accreditation of distance education. It is not subject to the rules that apply to correspondence coursework, which are discussed in the next section.

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### Telecommunications & correspondence study at foreign schools

A program offered by a foreign school in whole or in part by telecommunications, by correspondence, or as a direct assessment program is not an eligible program. 34 CFR 600.51(d)

Distance education means education that uses certain technologies to deliver instruction to students who are separated from the instructor, and to support regular and substantive interaction between the students and the instructor. The interaction may be synchronous (student and instructor are in communication at the same time) or asynchronous. The technologies may include

- the Internet,
- audio conferencing, or
- one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices.

A course taught through video cassettes or discs is also considered a distance education course but only if one of the three technologies listed is used to support interaction between the students and the instructor.

### Correspondence courses

Unlike distance education courses, which are now treated in the same way as all other eligible programs, some restrictions apply to correspondence courses.

A correspondence course is a home-study course provided by a school under which the school provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the school. Interaction between the instructor and student is limited, is not regular and substantive, and is primarily initiated by the student.

Correspondence courses are typically self-paced. When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials and returns the examinations to the school for grading.

- If a course is part correspondence and part residential training, the course is considered to be a correspondence course.
- If a school adds telecommunications technology, such as electronic delivery of course materials or an online discussion board, to a correspondence course, the school must ascertain the predominant method of instruction (correspondence or telecommunications), keeping in mind that a telecommunications course must use technology to support regular and substantive interaction between students and the instructor. The school must apply the rules for the predominant method in administering its participation in the FSA programs.
- A course that is delivered in whole or in part through the use of video cassettes or video discs is a correspondence course unless the school also delivers comparable instruction to students attending resident classes at the school during the same award year.

If a school offers more than 50% of its courses by correspondence or if 50% or more of its students are enrolled in its correspondence courses, the school loses its eligibility to participate in the FSA programs (see *Chapter 1*).

Note that correspondence students enrolled in certificate programs are not eligible for FSA funds. For a full discussion of when a school may pay a student for correspondence study, see *Volume 1, Chapter 1*. Also see *Volume 3, Chapter 2* for limitations on the cost of attendance for correspondence students and *Volume 3, Chapter 1* for the timing of disbursements to correspondence students.

### Correspondence courses & institutional eligibility

34 CFR 600.2, "Correspondence course"  
34 CFR 600.7(a)(1)(i) and (ii)  
34 CFR 602.3, "Correspondence education"  
HEA Sec. 102(a)(3)(A) and (B)

### Videocassettes and discs example

A school offers an English 101 course via video cassette and computer conferencing. English 101 is also offered to students physically attending classes at the school during the same award year. In this case this course would be considered a telecommunications course.

The school also offers Art History 302 via video cassette. Art History 302 is **not** offered to students physically attending classes at the school during this award year. In this case this course would **not** be considered a telecommunications course for this award year. It is considered a correspondence course.

### A combined correspondence and residential program example

A school offers a truck driving program. The first part of the program is offered via correspondence. After completing the correspondence portion of the program the student has to attend a residential site where he or she actually learns how to drive trucks.

This program is considered a correspondence program.

### Credit & clock hour rules

Definition of clock hour  
34 CFR 600.2  
Programs considered to be clock hour  
34 CFR 668.8(k)  
Definition of credit hour  
34 CFR 600.2

### Implementation dates for new rules

For students enrolled in programs subject to the conversion as of July 1, 2011, the school may—

- Use current regulations until the students complete the program; or
- Apply new regulations for all students enrolled in payment periods assigned to 2011-12 award year.

For students who enroll or reenroll on or after July 1, 2011, the school must use the new regulations.

### Measuring attendance in clock hours

A student’s period of attendance is measured according to one of several commonly accepted academic standards. A clock hour is based on an actual hour of attendance (though each hour may include a 10-minute break). Credit hours are typically based on two hours of homework for each hour of class attendance.

A school is not permitted to count more than one clock hour per 60-minute period; in other words, a school may not schedule several hours of instruction without breaks, and then count clock hours in 50-minute increments.

For instance, a school could not consider 7 consecutive hours of instruction to be 8.4 hours by dividing 50 minutes into the sum of 420 minutes. In this example, seven 60-minute periods of instruction may not count for more than seven clock hours.

## CLOCK-HOUR/CREDIT-HOUR CONVERSIONS IN DETERMINING PROGRAM ELIGIBILITY

The credit hour definition and the credit/clock hour conversion rules serve two purposes—

1. to determine program eligibility, and
2. to determine the award amount for certain FSA programs..



In this section, we discuss the first of these topics—the use of the credit and clock hour rules in determining if a program meets the minimum program length requirements discussed earlier in the chapter. For a discussion of the use of credit and clock hours in determining enrollment level and FSA awards, see *Volume 3, Chapter 1*.

### When a school must use clock hours for FSA purposes

A school may consider any program to be a clock-hour program. A GE program (see “Programs leading to gainful employment” earlier) must be considered to be a clock-hour program for purposes of the FSA programs if—



- A program is required to measure student progress in clock hours when 1) receiving federal or state approval or licensure to offer the program; or 2 ) completing clock hours is a requirement for graduates to apply for licensure or the authorization to practice the occupation that the student is intending to pursue;
- The credit hours awarded for the program are not in compliance with the definition of a credit hour (see below); or
- The school does not provide the clock hours that are the basis for the credit hours awarded for the program or each course in the program and, except for allowable excused absences (34 CFR 668.4(e)), requires attendance in the clock hours that are the basis for the credit hours awarded.

However, these requirements do not apply to a program if there is a state or federal approval or licensure requirement that a limited component of the program must include a practicum, internship, or clinical experience component of the program that must include a minimum number of clock hours.

### Definition of a clock hour

A clock hour is defined as a period of time consisting of—

- A 50- to 60-minute class, lecture, or recitation in a 60-minute period;
- A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period; or
- Sixty minutes of preparation in a correspondence course.

### Definition of a credit hour

A credit hour is an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates not less than—

1. One hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately 15 weeks for one semester or trimester hour of credit, or 10 to 12 weeks for one quarter hour of credit, or at least the equivalent amount of work over a different amount of time; or
2. At least an equivalent amount of work as required in paragraph (1) of this definition for other academic activities as established by the institution including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours.

The regulations make an exception to this definition in the case of programs that are subject to one of the clock-hour/credit hour conversion formulas (below).

### Clock/Credit Hour conversions in determining program eligibility

If your school offers an undergraduate educational program in credit hours that is considered a GE program, it must use one of the following conversion formulas, unless—

- The program is at least 2 academic years in length and provides an associate degree, a bachelor's degree, a professional degree, or an equivalent degree as determined by the Department; or
- Each course within the program is acceptable for full credit toward that institution's associate degree, bachelor's degree, professional degree, or equivalent degree as determined by the Department, provided that 1) the school's degree requires at least two academic years of study; and 2) the school demonstrates that students enroll in, and graduate from, the degree program.

The conversion formula will determine whether the program includes the minimum number of credit hours to qualify as an eligible program for FSA purposes.

For purposes of determining the number of credit hours in that educational program with regard to the FSA programs—

- A semester hour must include at least 37.5 clock hours of instruction;
- A trimester hour must include at least 37.5 clock hours of instruction, and
- A quarter hour must include at least 25 clock hours of instruction.

### State/accrediting agency criteria for clock/credit hours

The regulations for state and accreditation agencies explain how an agency reviews a school's assignment of credit hours. 34 CFR 602.24 and 603.24

### Clock/credit hour conversions

34 CFR 668.8(k) & (l)

### Exemption if ED determines that the program offers "equivalent degree"

The regulations also stipulate that the school is exempted from using the clock-hour/credit-hour formulas if the Department determines that the program provides a degree equivalent to an associate degree, a bachelor's degree, or a professional degree. This does not permit a school to ask for a determination that a nondegree program is equivalent to a degree program.

### Rounding

Because the results of these formulas determine the eligibility of a program, the resulting number of credit hours may not be rounded up. The results for each course may include the result with fractions or must be rounded down.



**Out-of-class student work**

The school's conversions to establish a minimum number of clock hours of instruction per credit may be less, if the school's designated accrediting agency, or recognized state agency for the approval of public postsecondary vocational institutions for participation in the FSA programs has not identified any deficiencies with the school's policies and procedures, or their implementation, for determining the credit hours (as defined above), that the school awards for programs and courses, in accordance with 34 CFR 602.24(f), or, if applicable, 34 CFR 603.24(c), so long as—

- The school's student work outside of class combined with the clock-hours of instruction meet or exceed the numeric requirements (37.5 or 25); and
- 1) A semester hour must include at least 30 clock hours of instruction; 2) A trimester hour must include at least 30 clock hours of instruction; and 3 ) A quarter hour must include at least 20 hours of instruction.

Merely having coursework that is outside of class does not mean a school can automatically divide by 30. The minimum may be higher than 20 or 30 depending on the amount of out-of-class work that is expected in the different educational activities of a program and may vary depending on the particular activity. The case study that follows illustrates a method for accurately accounting for any out-of-class work a student may have in a course.

Also, the amount of out-of-class work in a particular course or activity in a program does not carry over to other courses or activities.

To determine if the program meets the FSA standard for the minimum number of credit hours for that type of program, schools must use one of the following formulas.

For a semester or trimester hour program

**Number of clock hours in the credit-hour program**

**37.5**

For a quarter hour program

**Number of clock hours in the credit-hour program**

**25**

If a school applies the appropriate formula and finds that a program is eligible, the converted credit hours are used to determine the amount of FSA funds that a student who is enrolled in the program is eligible to receive as explained in *Volume 3, Chapter 1*.

*Credits approved by state and accrediting agencies*

When some states and accrediting agencies approve programs, they also approve the number of credits in the programs. The credits approved by states and accrediting agencies are **not** necessarily the credits for FSA purposes. For FSA purposes, the number of credits in the program will be those determined by the conversion formula, and they will never be more than those approved by a state or accrediting agency.

## Conversion Case Study (to semester hours)

- A program with 720 clock hours consists of—
  - 5 classroom courses with 120 clock hours each, and
  - A 120 clock-hour externship with no out-of-class student work.
- The institution determines that for—
  - The first 3 classroom courses, a student generally is required to perform 40 hours of out-of-class work for each course, and
  - The last 2 classroom courses have 8 hours of out-of-class work for each course.
- Two options
  - Default option: convert only based on clock hours and ignore any out-of-class work
  - Full formula option: take into account both clock hours and out-of-class work to determine the maximum allowable credit hours
- Four possible outcomes depending on institutional policy for option and rounding (always round down course-by-course):
  - Default option: 19.2 or 18 semester hours
  - Full formula option: 22.026 or 21 semester hours
- Default option: use the default 37.5 clock hours per semester hour, ignoring the out-of-class work (conversion must be course by course)
  - $$120 / 37.5 = 3.2 \text{ semester hours per course (or 3, if rounding; always round down course-by-course)}$$
  - Converted program =  $3.2 * 6 = 19.2$  semester hours (or  $3 * 6 = 18$  semester hours, if rounding)
- Full formula option
  - Illustrates:
    - Must evaluate on individual coursework components of a program
    - Total clock hours and out-of-class student work is irrelevant
    - Must meet limitation for the minimum number of clock hours per credit hour in addition to out-of-class work
    - Excess out-of-class student work per credit hour does not carry over between courses or educational activities in a program
    - Use exact calculation including any fractions of credit hours or round down any fraction, including a fraction equal to or greater than  $\frac{1}{2}$
    - Rounding on individual course or educational activity, not on the total

Full formula option

	In-class clock hours		Allowable out-of-class prep hours	Total clock and prep hours	Semester hours	Semester hours (rounded)	Notes
Course #1 (40 hours of actual out-of-class student work)	120	+	$7.5 * 4 = 30$	150	4	4	(A), (C)
Course #2 (40 hours of actual out-of-class student work)	120	+	$7.5 * 4 = 30$	150	4	4	(A), (C)
Course #3 (40 hours of actual out-of-class student work)	120	+	$7.5 * 4 = 30$	150	4	4	(A), (C)
Course #4 (8 hours of actual out-of-class student work)	120	+	8	128	3.413	3	(B), (D)
Course #5 (8 hours of actual out-of-class student work)	120	+	8	128	3.413	3	(B), (D)
Externship (no out-of-class student work)	120	+	0	120	3.2	3	(E)
Total clock hours and out-of-class student work (amount not relevant)				826			
<b>Total semester hours if no rounding</b>					<b>22.026</b>		
<b>Total semester hours if rounding (must round down any fractions to ensure no overawards)</b>						<b>21</b>	

**NOTES:**

**Limitation:** the rules do not allow more than 7.5 hours of out-of-class prep for every 30 hours in class

- (A) 120 in-class hours divided by 30 hours = 4      There are 10 hours of out-of-class prep per 30 clock hours ( $40/4 = 10$ ), but cannot have more than 7.5 ( $4 * 7.5 = 30$ )
- (B) 120 in-class hours divided by 30 hours = 4      There are 7.5 or fewer hours of out-of-class prep per 30 clock hours ( $8/4 = 2$ ), so use actual hours of out-of-class prep (8)

**Semester hours per course**

- (C) 150 total clock and prep hours divided by 37.5 = 4
- (D) 128 total clock and prep hours divided by 37.5 = 3.413
- (E) 120 total clock hours divided by 37.5 = 3.2