

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

A school's eligibility does not necessarily extend to all its programs, so the school is responsible for ensuring that a program is eligible before awarding FSA funds to students in that program.

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. (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 distance 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 meets the definition of an eligible program, students enrolled in that program will be

Program eligibility

34 CFR 668.8
34 CFR 691.2(b)

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 to change programs and locations—*Volume 2, Chapter 5*

School, program, and 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 www.onetonline.org or its successor site, or
- considered by ED, in consultation with the Department of Labor, to be a recognized occupation.

If the title of the program does not clearly indicate the specific occupation that the program prepares the student for, that information must appear on the E-App.

considered eligible (see *Distance Education & 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 two academic years in duration that is acceptable for full credit toward a bachelor’s degree,
- a program of at least one 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 one 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 later.

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.

Other eligible programs

There are additional types 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.)

1. The program provides 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.
2. The program provides 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.
3. The program is known as a short-term program, which 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 persons who have not completed the equivalent of an associate degree.

34 CFR 668.8

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 below),
- 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 its length

= Completion Rate

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

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

= Placement Rate

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

*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.

Recognized occupation

34 CFR 600.2

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 note on page 16. Preparatory coursework necessary for enrollment in an eligible program taken at a proprietary institution is also not subject to the “gainful employment” rules. Gainful employment programs are explained on the following pages.

PROGRAMS LEADING TO GAINFUL EMPLOYMENT

To be eligible for funding under the FSA programs, an educational program at an institution of higher education 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 offered by postsecondary vocational institutions and those—degree and nondegree—offered by proprietary institutions of higher education must prepare students for “gainful employment in a recognized occupation” to be FSA-eligible. Collectively we refer to these programs—all nondegree educational programs offered by public and private nonprofit institutions and virtually all academic programs offered by proprietary institutions—as “gainful employment programs” (or “GE programs”). They are subject to the Department’s regulations on disclosures (see *Chapter 6*) and on the addition of new educational programs (see *Chapter 5*). Note that only Title IV-eligible programs are required to be GE programs, and only for those programs are GE data required to be disseminated.

State requirements and program length

If the stated objectives of an educational program are to prepare a student for gainful employment, the institution must demonstrate a reasonable relationship between the length of the program and entry level requirements for which the program prepares the student. The Secretary considers the relationship to be reasonable if the number of clock hours provided in the program does not exceed by more than 50% the minimum number of clock hours required for training in the recognized occupation for which the program prepares the student, as established by the State in which the program is offered, or as established by any federal agency (if applicable). See 34 CFR 668.14(b)(26).

Domestic proprietary institutions & domestic postsecondary vocational institutions

The following educational programs offered by these institutions are gainful employment programs:

- Undergraduate and graduate degree programs.
- Certificate programs. These include undergraduate, post-baccalaureate, graduate, and postgraduate certificate programs.
- Teacher certification programs that result in a certificate awarded by the institution (see the sidebar on the next page).
- Approved comprehensive transition and postsecondary programs for students with intellectual disabilities.

Gainful employment guidance

Gainful Employment Electronic Announcements #11 and #12 provide a series of questions that can be used to help determine if an educational program is a gainful employment program.

The following are not gainful employment programs when offered by these institutions:

- 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 has offered the program since January 2009.
- Preparatory coursework that is necessary for enrollment in an eligible program.

Domestic public and domestic private nonprofit institutions of higher education

The following educational programs offered by these institutions are gainful employment programs:

- Nondegree programs, including all certificate programs (undergraduate, postbaccalaureate, graduate, and postgraduate). Note that awarding students one or more certificates as part of a degree program does not make the degree program a GE program.
- Teacher certification programs that result in a certificate awarded by the institution (see sidebar).
- Approved comprehensive and postsecondary transition programs for students with intellectual disabilities.

The following are not gainful employment programs when offered by these institutions:

- Programs that lead to a degree, including associate's, bachelor's, graduate, and professional degrees.
- Programs that are at least two years in length and are specifically designed to be fully transferable to the third year of a bachelor's degree program. These programs do not lead to certificates.
- Preparatory coursework that is necessary for enrollment in an eligible program.

Foreign proprietary institutions

The only programs at foreign proprietary institutions that are eligible for FSA loan funds are degree programs in medicine, nursing, and veterinary science. These are all GE programs when offered at these institutions—there are no non-GE programs at foreign proprietary institutions.

Foreign public and nonprofit institutions

Gainful employment programs at these institutions are the same as for domestic public and domestic nonprofit institutions, as explained previously. Non-GE programs are also the same as for domestic public and nonprofit institutions.

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.

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 by the institution 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

Applying for eligibility for a CTP program

When applying to the Department for eligibility for a CTP program, a school must follow the procedures in 34 CFR 600.20 and provide the information described in 34 CFR 668.232. See the electronic announcement dated 6/21/10 on the IFAP website.

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 homeschooled or attended private school.

TEACH Grant program

34 CFR Part 686

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.

Programs for students with intellectual disabilities

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

A CTP program is a degree, certificate, non-degree, or non-certificate 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 to prepare for gainful employment. Schools must apply to the Department to have such a program judged eligible.

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

Educational programs eligible for TEACH Grants

To qualify for TEACH Grants, an educational program must be

- designed to prepare an individual to teach as a highly qualified teacher in a high-need field and lead to a baccalaureate or master's degree (including 2-year programs of study that are acceptable for full credit toward a baccalaureate degree), or
- a postbaccalaureate 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 postbaccalaureate program consists of courses required by a state for a student to receive a professional certification or licensing credential that is needed for employment as a teacher in an elementary 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. Note that the program cannot be considered a postbaccalaureate program if the school offers a baccalaureate degree in education. For TEACH grant student eligibility requirements, 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 funds to students in an ESL program must request from the Department an eligibility determination for the program.

Direct assessment programs

Instead of using credit hours or clock hours, an instructional program can use direct assessment to measure student learning or can recognize direct assessment by others. Examples of direct measures of learning include projects, papers, examinations, presentations, performances, and portfolios. These provide evidence that a student has command of a subject or skill or that he demonstrates an ability—creative, analytical, or synthesizing for example—associated with the subject matter of the program.

The entire program must be provided by direct assessment; those offered partially with credit or clock hours are not eligible programs. Also, the assessment must be consistent with the accreditation of the institution or 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* later in this chapter).

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*).

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 that 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 3*.

Awarding FSA loans to a student for too many semesters for ESL or remedial coursework could exhaust his eligibility under the aggregate loan limits before he completes his educational program. See *Volume 1, Chapter 1*.

Direct assessment programs

34 CFR 668.10

For more information, including step-by-step instructions on how to apply for Title IV approval of a direct assessment program, see DCL GEN-13-10.

Direct assessment definitions

An **academic year** in a direct assessment program consists of a minimum of 30 weeks of instructional time, during which a full-time student is expected to complete the equivalent of at least 24 semester or trimester credit hours or 36 quarter credit hours for an undergraduate program.

A **week of instructional time** is any seven-day period in which at least one day of educational activity occurs.

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

Independent study occurs when a student follows a course of study and works with a faculty member to decide how the student will meet defined course objectives. Both agree on what the student will do (e.g., readings, research, and work products), how the student’s work will be evaluated, and the time frame for completion. The student must interact with the faculty member on a regular and substantive basis to assure progress within the course or program.

A **full-time student** is one carrying a full-time academic workload, as determined by the school, that is the standard for all students in the program. For undergraduate students, the school’s standard must equal or exceed the minimum requirements in the definition of full-time student in 34 CFR 668.2, based on the credit- or clock-hour equivalency for the program.

- 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.

A school that wishes to award FSA funds for a program using direct assessment must submit an updated E-App (at www.eligcert.ed.gov) to the Department to apply for approval of the program. In addition to updating the E-App, the school will email to the case teams (at CaseTeams@ed.gov) supporting documentation: a detailed program description (recommended length not to exceed 20 pages) and a detailed description of financial aid administration (not to exceed 5 pages). See DCL GEN-13-10 for complete instructions.

The detailed program description will be a succinct narrative clearly indicating the name of the program and how it meets the regulatory requirements of 34 CFR 668.10(b). Each requirement must be specifically identified in the narrative; for example, there must be a description of how the assessment of learning is done [668.10(b)(2)].

The detailed description of financial aid administration for the program should explain how the program meets the Title IV requirements. For example, school must provide a basis for its credit or clock hour equivalent for the program or portion thereof (the clock or credit hours will be used as the basis for the FSA award calculations described in *Volume 3, Chapter 1*).

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

Study-abroad programs

A participating institution may establish study-abroad programs for which students are eligible to receive FSA funds. A study-abroad program is eligible if the home school awards academic credit for it and students in it remain concurrently enrolled at their home school.

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

Flight school programs

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

Flight school program

34 CFR 668.8(i)

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 equivalent to its own and the instruction an acceptable substitute for its own.

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. Also, although grades received through consortium or contractual agreements do not have to be included in a student's grade point average, they must be included when calculating the quantitative component (the percentage of credits earned vs. attempted) of her 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 that portion of the educational program,
- the method of delivery of that part of the educational program, and
- estimated additional costs students may incur by enrolling in an educational program provided 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.

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 his eligibility and make payments.

Written 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 a 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 an 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 when the student withdraws.

Written arrangements between schools under same ownership or control

If the written arrangement is between two 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.

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.

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 determining enrollment status under a consortium agreement, 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 recertification to participate in the FSA programs was 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 of proceeding initiated by the school's state licensing agency, accrediting agency, or 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.

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.)

Study-abroad 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 for the student to be eligible to receive FSA funds, but the credits earned through the study-abroad or exchange program must apply toward graduation in the student's program at 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 school that is calculating and disbursing the aid.

If a study-abroad program has higher costs than the home school, those should be reflected in the student's cost of attendance. This may result in the student being eligible for additional FSA funds.

Some eligible students have had problems receiving FSA funds for study-abroad programs because neither their home school nor the school they were temporarily attending documented that they were 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 his home school is eligible for FSA funds regardless of whether the program is required for his regular, eligible program of study as long as he is an eligible regular student enrolled in an eligible program at the home school, which approves the study-abroad work for academic credit. The Program Participation Agreement requires participating schools to establish procedures that ensure that students participating in study-abroad programs receive the FSA funds to which they are entitled.

Types of study-abroad programs

Study-abroad program configurations include the following:

- 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 has, instead of a separate agreement with each foreign school, a written arrangement with a study-abroad organization that represents one or more foreign schools. The arrangement 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 is not a consortium or contractual study-abroad program; rather, the foreign site is considered an additional location under 34 CFR 600.32.

Study abroad references

Arrangements with a study-abroad organization
34 CFR 668.5
Student eligibility in study-abroad programs
34 CFR 668.39

Foreign schools acting on behalf of other foreign schools

An eligible U.S. school may have a written arrangement with a foreign school or organization that is acting on behalf of a foreign school, but such an arrangement is always considered to be one between an eligible domestic school where the student enrolls and an ineligible foreign school, even if the latter is otherwise Title IV-eligible. Therefore, these arrangements are considered contractual agreements that must follow the rules that apply to such. See DCL GEN-11-18 for more information about Title IV eligibility of programs offered through written arrangements between U.S. and foreign schools.

Accreditation for distance education

Distance education programs must be evaluated by an accrediting agency that is recognized by ED for the purpose of evaluating distance education, just as an agency must be specifically reviewed and recognized for the evaluation of correspondence education. Dear Colleague Letter GEN-06-17 includes specific instructions on notifying ED if the school intends to seek new accreditation and updating the E-App to reflect changes to the school's accreditation.

Distance education & correspondence study at foreign schools

A program offered by a foreign school in whole or in part by distance education, by correspondence, or as a direct assessment program is not an eligible program. 34 CFR 600.51(d) (Note that this regulation still mentions "telecommunications," which is the old term for distance education.)

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)

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 she is enrolled in correspondence or distance education courses unless the courses are not part of an eligible program.

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.

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 treated the same as all other eligible programs, some restrictions apply to correspondence courses. A correspondence 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 correspondence education.

A correspondence course is a home-study course for 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, not regular and substantive, and 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 distance education 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 distance education), keeping in mind that a distance education course must use technology to support regular and substantive interaction between the students and instructor. The school must use the rules for the predominant method in administering the FSA programs.

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.

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

The credit hour definition and the credit/clock hour conversion rules serve two purposes: to determine program eligibility and 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.

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 clock-hour for FSA purposes if

- there is a requirement 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.

A combined correspondence and residential program example

A school offers a truck driving program, the first part of which is offered via correspondence. After completing that part of the program, the student has to attend a residential site where he learns how to drive trucks. This is 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)(2)

Definition of credit hour

34 CFR 600.2

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 seven consecutive hours of instruction to be 8.4 hours by dividing 50 minutes into 420 minutes. Seven 60-minute periods of instruction may not count for more than seven clock hours.

Clock-credit hour conversions

34 CFR 668.8(k) & (l)

See the Program Integrity Q&As at <http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/credit.html#credit>.

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.

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 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 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, as described in the following text.

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

For determining the number of credit hours in that educational program

- 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.

See “Out-of-class student work” in the margin.

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*.

For more information on how to perform the clock-hour/credit-hour conversion, see pages 31 and 32.

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, but they will never be more than those approved by a state or accrediting agency.

Out-of-class student work

The school’s minimum number of clock hours of instruction per credit may be less if its 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 for determining the credit hours that the school awards for programs and courses. In such cases student work outside of class combined with the clock hours of instruction must meet or exceed the numeric requirements (37.5 or 25), and

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.

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

Exception example

Although for a program to be eligible for the clock-credit hour conversion exception all of the classes must be *acceptable* for full credit toward a degree program at the school, only a majority need to actually be *accepted* into the program. For example, a school has a two-year program in plumbing and a bachelor’s degree program in construction technology. Any of the five plumbing courses taken by a student in the two-year plumbing program may be used to satisfy the plumbing requirement in construction technology. However, that requirement is only for three plumbing courses, and no more than that can be accepted toward the construction technology degree. But since all of the plumbing courses that are part of the two-year program are acceptable in the bachelor’s program and a majority (three out of five or 60%) will be accepted, the plumbing program qualifies for the exception.

- a semester hour must include at least 30 clock hours of instruction,
- a trimester hour must include at least 30 clock hours of instruction, and
- 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 or 20. 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.

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 half
 - 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			
Total semester hours if no rounding					22.026		
Total semester hours if rounding (must round down any fractions to ensure no overawards)						21	

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