BREAKOUT SESSION #1

Understanding Prison Education Programs for Confined or Incarcerated Individuals

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U.S. Department of Education

2022 Virtual FSA Training Conference for Financial Aid Professionals

Federal Student Aid

An OFFICE of the U.S. DEPARTMENT of EDUCATION

AGENDA

1. History of Pell Grants in Prisons
2. Prison Education Programs (PEP)
3. Role of the Oversight Entity
4. Other Requirements
5. Resources

HISTORY OF PELL GRANTS IN PRISONS

34 CFR 668.235

FAFSA SIMPLIFICATION ACT: CHANGES FOR INCARCERATED STUDENTS

Federal Student Aid
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Allows individuals confined in a State or Federal correctional facility access to Pell Grants

Ties Pell Grant eligibility for confined or incarcerated students to enrollment in an "eligible prison education program"

Defines an “eligible prison education program"

SECOND CHANCE PELL EXPERIMENT

- In 2014, the Department waived the 1994 statutory ban for a limited number of schools
- The experiment was designed to:
  - Examine how providing Pell Grants to incarcerated students influences participation in educational opportunities and academic outcomes
  - Examine challenges/obstacles to a school's administration of Title IV HEA programs to incarcerated students

SECOND CHANCE PELL EXPERIMENT (CONT.)

Initial findings

More than ½ of the schools are public 2-year colleges

Most schools already offered a program for incarcerated students

75% of enrolled students received other non-federal aid

PRISON EDUCATION PROGRAMS (PEP)

34 CFR 668.235

DEFINITIONS

01 Additional Location

A Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility or other similar correctional institution is considered to be an additional location as defined under 34 CFR 600.2 even if a student receives instruction primarily through distance education or correspondence courses at that location

02 Confined or Incarcerated Individual

An individual who is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility, or other similar correctional institution. An individual is not considered incarcerated if that individual is subject to or serving an involuntary civil commitment, in a half-way house or home detention, or is sentenced to serve only weekends.

03 Oversight Entity

(1) The appropriate State department of corrections or other entity that is responsible for overseeing correctional facilities; or **(2)** The Federal Bureau of Prisons.

DEFINITIONS (CONT.)

04 Feedback Process

A process established by the oversight entity to obtain nonbinding feedback to the oversight entity regarding the approval and operation of a Prison Education Program within the oversight entity's jurisdiction

05 Relevant Stakeholders

Individuals and organizations that provide input as part of a feedback process to the oversight entity regarding the approval and operation of a Prison Education Program within the oversight entity's jurisdiction.

PRISON EDUCATION PROGRAMS

01 A school offering a PEP must be a public, nonprofit or vocational institution

02 The programs must be approved to operate by the oversight entity

03 After two years of approval a "best interest determination" must be made by the oversight entity

04 Offers transferability of credits to at least one institution in the State where the correctional facility is located

PRISON EDUCATION PROGRAMS (CONT.)

05 Institutions cannot be subject to negative actions in the last five years by the Department, State or accrediting agency

06 Institutions cannot be subject to an initiated adverse action by an accrediting agency

07 If applicable, satisfies educational requirements for professional licensure or certification in the State in which the correctional facility is located

08 Does not enroll confined or incarcerated individuals if that individual would be prohibited from licensure or employment in the field based on Federal or State law

ACCREDITATION

- The accrediting agency or State approval agency must evaluate the first PEP at the first two additional locations
- Evaluate the first additional PEP offered by a new method of delivery
- The agency must perform a site visit at the first two additional locations within one year
- The agency must review & approve the methodology for how the institution & oversight entity determine that PEP meets the same standards as similar programs that are not a PEP.

APPLICATION REQUIREMENTS

An institution must apply to the Department for approval of the first PEP at the first two additional locations. The application must include:

- ✓ Description of PEP
- ✓ Approval documentation from the accrediting body
- ✓ Name of the correctional facility
- ✓ Methodology that the oversight entity used for approval of the PEP
- ✓ Information on the services offered to admitted students
- ✓ Acknowledgment that the Department can limit or terminate approval of the PEP if the regulations are violated or submissions to the Department are materially inaccurate
- ✓ Agreement to submit reports to the Department
- ✓ Documentation that the institution has an agreement with the oversight entity to obtain data about transfer and release dates

PROGRAM REPORTING REQUIREMENTS

For any PEP other than the first PEP at the institution's first two prison locations, the institution must report the PEP to the Department and include the following documentation:

01 was not subject to adverse actions by the accrediting agency in the last five years

02 is not currently subject to an initiated adverse action

03 has an agreement to obtain transfer and release date information for the oversight entity

ROLE OF THE OVERSIGHT ENTITY

ROLE OF THE OVERSIGHT ENTITY (CONT.)

The oversight entity must:

- Initially authorize the institution to operate within a facility
- Agree in writing to provide data on transfer or releases of confined or incarcerated students who received Pell Grants
- Determine whether each PEP is being offered in the best interest of students
- Document its process for making the best interest determination and provide that documentation to the institution to retain as long as the program is in operation

BEST INTEREST DETERMINATION

- The oversight entity must decide that the PEP is in the best interest of students two years after the initial approval
- The best interest determination must be done in perpetuity 120 days prior to the expiration of the institution's program participation agreements
- The institution must obtain and maintain documentation of the methodology by which the oversight entity made each determination for as long as the program is active and three years following discontinuance.
- If the oversight entity does not find a program to be in the best interest of students, it must allow for programs to re-apply within a reasonable timeframe.

INPUT FROM STAKEHOLDERS

An oversight entity makes the best interest determination—

- Through a feedback process that considers input from relevant stakeholders; and
- In light of the totality of the circumstances.

Relevant stakeholders must include:

- Representatives of confined or incarcerated individuals,
- Organizations representing confined or incarcerated individuals,
- State higher education executive offices, and
- Accrediting agencies

They may also include additional stakeholders as determined by the oversight entity.

BEST INTEREST DETERMINATION

The best interest determination must include an assessment of:

01 Experience, credentials, and turnover rates of instructors

02 Transferability of credits

03 Feasibility of former incarcerated PEP students to transfer their credits and continue their program at any location of the institution that offers comparable program

04 Academic and career advising

BEST INTEREST DETERMINATION

The best interest determination may optionally include an assessment of:

05 Students continuing their education post-release

06 Job placement rates

07 Earnings post release

08 Rates of recidivism

09 Rates of Completion

10 Any other metric the oversight entity chooses to include in the assessment

OTHER REQUIREMENTS

TRANSITION TO PEP

01

This does NOT pertain to the Second Chance Pell experiment; the Department will provide guidance on transition procedures for that experiment separately

02

If an institution is currently operating a Title IV eligible program in a correctional facility (e.g., a local jail), that program must be converted to an eligible PEP

03

The student enrolled in the program may continue receiving Pell until:

- July 1,2029
- Student reaches max. timeframe for program completion
- Student has exhausted lifetime Pell eligibility

04

An institution is not permitted to enroll a confined or incarcerated student on or after July 1, 2023, who was not enrolled prior unless the eligible program is 1st converted to an eligible PEP

INSTITUTIONAL ELIGIBILITY

- An institution is generally not eligible if more than 25% of the institution's regular enrolled students are incarcerated
- The Department will consider if the institution is financially responsible or administratively capable
- If the institution offers PEPs that are less than two years, then confined or incarcerated individuals enrolled in the programs must have a 50% completion rate or greater

WAIVER OF ENROLLMENT LIMITATION

- Institutions may apply to the Department to waive the 25% limit on enrollment of confined or incarcerated students
- If approved, an institution will be permitted to enroll up to 50% confined or incarcerated students for five years
- Following that five-year period, the institution will be permitted to enroll up to 75% confined or incarcerated students
- The Department can limit or terminate the waiver if the institution no longer meets the requirements for receiving the waiver

DISCLOSURES

If a PEP is designated to meet educational requirements for a professional license or certification required for employment, the institution must identify if that occupation involves State or Federal prohibitions of the license or employment of formerly incarcerated individuals in any other State for which the institution has determined about State prohibitions on the licensure or certification of formerly incarcerated individuals.

CALCULATION OF PELL

- The cost of attendance (COA) for an incarcerated student is limited to tuition, fees, books, course materials, supplies, equipment, and the cost of obtaining a license, certification, or first professional credential
- For a confined or incarcerated individual Pell cannot exceed the COA; if Pell exceeds the COA it must be reduced as to not result in a credit balance
- If Pell funds are combined with other financial assistance the other financial assistance must be reduced to not exceed COA
- If the other financial assistance cannot be reduced the Pell must be reduced

CALCULATION OF PELL (CONT.)

For examples of how eligibility used of Pell is calculated, please see the notice of proposed rulemaking, under the "Calculation of a Federal Pell Grant" in the "Proposed Regulations" section here:

https://www.federalregister.gov/documents/2022/07/28/2022-15890/institutional-eligibility-student-assistance-general-provisions-and-federal-pell-grant-program

INVOLUNTARY CIVIL COMMITMENT

Currently, an individual is **not considered confined or incarcerated** if that individual is subject to or serving an involuntary civil commitment. This law has been **REPEALED.**

Effective July 1, 2023, an otherwise-eligible student subject to an involuntary civil commitment may qualify for a Pell Grant.

FAFSA FOR INCARCERATED STUDENTS

Incarcerated Applicant Form

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Apply by the Deadlines

For federal aid, submit your application as early as possible, but no earlier than October 1, 2022. We must receive your application no later than June 30, 2024. Your college must have your correct, complete information by your last day of enrollment in the 2023-2024 school year.

For state or college aid, the deadline may be as early as October 2022. See the table to the right for state deadlines. You may also need to complete additional forms.

Check with your high school counselor or a financial aid administrator at your college about state and college sources of student aid and deadlines.

If you are filing close to one of these deadlines, we recommend you file either online at **fafsa.gov** or via the myStudentAid mobile app. These are the fastest and easiest ways to apply for aid.

Use Your Tax Return

We recommend that you complete and submit your FAFSA form as soon as possible on or after October 1, 2022. The easiest way to complete or correct your FAFSA form with accurate tax information is by using the IRS Data Retrieval Tool either through **fafsa.gov** or the myStudentAid mobile app. In a few simple steps, most students and parents who filed a 2021 tax return can transfer their tax return information directly into their FAFSA form.

If you (or your parents) have missed the 2021 tax filing deadline and still need to file a 2021 income tax return with the Internal Revenue Service (IRS), you should submit your FAFSA form now using estimated tax information, and then you ***must correct*** that information ***after you file*** your return.

Note: Both parents or both the student and spouse may need to report income information on the FAFSA form if they did not file a joint tax return for 2021. For assistance with answering the income information questions in this situation, call 1-800-4-FED-AID (1-800-433-3243).

Fill Out the FAFSA® Form

If you or your family experienced significant changes to your financial situation (such as loss of employment or pay cuts), or other unusual circumstances (such as tuition expenses at an elementary or secondary school or high unreimbursed medical or dental expenses), complete this form to the extent you can and submit it as instructed. Consult with the financial aid office at the college(s) you applied to or plan to attend.

For help in filling out the FAFSA form go to **StudentAid.gov/apply-for-aid/fafsa/filling-out** or call 1-800-433-3243.

Fill the answer fields directly on your screen or print the form and complete it by hand. Your answers will be read electronically; therefore, if you complete the form by hand:

- **use dark ink and fill in circles completely:** Correct ● Incorrect ⊗ ⓥ
- **print clearly in CAPITAL letters and skip a box between words:** 1 5 / E L M S T
- **report dollar amounts (such as $12,356.41) like this:** $ 1 2 3 5 6 no cents

Yellow is for student information and purple is for parent information.

Mail Your FAFSA® Form

After you complete this application, make a copy of pages 3 through 8 for your records. Then mail the original of pages 3 through 8 to:

Federal Student Aid Programs, P.O. Box 7657, London, KY 40742-7657.

After your application is processed, you will receive a summary of your information in your *Student Aid Report* (SAR). If you provide an e-mail address, your SAR will be sent by e-mail within three to five days. If you do not provide an e-mail address, your SAR will be mailed to you within three weeks. If you would like to check the status of your application, go to **fafsa.gov** or call 1-800-433-3243.

Let's Get Started!

Now go to page 3 of the FAFSA form and begin filling it out. Refer to the notes on pages 9 and 10 as instructed.

The Federal Student Aid logo and FAFSA are registered trademarks of Federal Student Aid, U.S. Department of Education.

Pay attention to any symbols listed after your state deadline.

States and territories not included in the main listing below: AL*, AS**, AZ*, CO*, FM**, GU**, HI**, KY[+§], MH**, NC[+§], ND[+§], NE*, NH**, NM*, OK*, PR*, PW**, RI**, SD**, UT*[§+], VA**, VI**, VT[+§*], WA[+*], WI* and WY**.

STATE AID DEADLINES

State	Deadline
AK	Alaska Education Grant ^ $ Alaska Performance Scholarship: June 30, 2023 # $
AR	Academic Challenge: July 1, 2023 *(date received)* ArFuture Grant: fall term, July 1, 2023 *(date received)*; spring term, Jan. 10, 2024 *(date received)*
CA	For many state financial aid programs: March 2, 2023 *(date postmarked)*. Cal Grant also requires submission of a school-certified GPA by March 2, 2023. For additional community college Cal Grants: Sept. 2, 2023 *(date postmarked)*. For noncitizens without a Social Security card or with one issued through the federal Deferred Action for Childhood Arrivals (DACA) program, fill out the *California Dream Act Application*. Contact the California Student Aid Commission or your financial aid administrator for more information.
CT	Feb. 15, 2023 *(date received)* # * *
DC	FAFSA form completed by July 1, 2023 # For DC Tuition Assistance Grant, complete the DC OneApp and submit supporting documents by Aug. 1, 2023. #
DE	April 15, 2023 *(date received)*
FL	May 15, 2023 *(date processed)*
GA	Refer to Georgia Student Finance Commission's web site for additional information. ^* *
IA	July 1, 2023 *(date received)*; earlier priority deadlines may exist for certain programs. *
ID	Opportunity Scholarship: March 1, 2023 *(date received)* # * *
IL	Refer to the Illinois Student Assistance Commission's web site for the current Monetary Award Program (MAP) deadline dates. ^ $
IN	Adult Student Grant ^ $. New applicants must submit additional form. Workforce Ready Grant ^ Frank O'Bannon Grant: April 15, 2023 *(date received)* 21st Century Scholarship: April 15, 2023 *(date received)*
KS	April 1, 2023 *(date received)* # * *
LA	July 1, 2024 (Feb. 1, 2023, recommended)
MA	May 1, 2023 *(date received)* #
MD	March 1, 2023 *(date received)*
ME	May 1, 2023 *(date received)*
MI	March 1, 2023 *(date received)*
MN	30 days after term starts *(date received)*
MO	Feb. 1, 2023 # Applications accepted through April 1, 2023 *(date received)*
MP	April 30, 2023 *(date received)* # *
MS	MTAG and MESG Grants: Oct. 15, 2023 *(date received)* HELP Grant: April 30, 2023 *(date received)*
MT	Dec. 1, 2022 # * *
NJ	Renewal applicants (2022–2023 Tuition Aid Grant recipients): April 15, 2023 *(date received)* All other applicants: fall and spring terms, Sept. 15, 2023 *(date received)*; spring term only, Feb. 15, 2024 *(date received)*
NV	Silver State Opportunity Grant ^ $ Nevada Promise Scholarship: March 1, 2023 * $ All other aid * *
NY	June 30, 2024 *(date received)* *
OH	Oct. 1, 2023 *(date received)*
OR	Oregon Opportunity Grant ^ $ OSAC Private Scholarships: March 1, 2023 * Oregon Promise Grant: Contact state agency. *
PA	All first-time applicants enrolled in a community college; business/trade/technical school; hospital school of nursing; designated Pennsylvania open-admission institution; or nontransferable two-year program: Aug. 1, 2023 *(date received)* All other applicants: May 1, 2023 *(date received)* *
SC	SC Commission on Higher Education Need-based Grants ^ $ Tuition Grants: June 30, 2023 *(date received)*
TN	State Grant: Prior-year recipients receive award if eligible and apply by March 1, 2023; all other awards made to neediest applicants. $ Tennessee Promise: March 1, 2023 *(date received)* State Lottery: fall term, Sept. 1, 2023 *(date received)*; spring and summer terms, Feb. 1, 2024 *(date received)*
TX	Jan. 15, 2023 # * Private and two-year institutions may have different deadlines. ♦
WV	PROMISE Scholarship: March 1, 2023. New applicants must submit additional form. Contact your financial aid administrator or state agency. WV Higher Education Grant: April 15, 2023 WV Invests Grant: April 15, 2023 #

* Additional forms may be required. ^ As soon as possible on or after Oct. 1, 2022.
♦ Check with your financial aid administrator. # For priority consideration, submit by date specified.
$ Awards made until funds are depleted.

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DO NOT Print!

VERIFICATION WAIVER

For 2023-24 award year

- V1 verification waived for students who are confined or incarcerated
- Department may still select, but schools are not required to verify those students

For 2024-25 award year

- Evaluating options
- More information to come

CASE SCENARIOS

How can the Prison Education Program benefit individuals in local jails who have already been sentenced? Example:

- An individual who committed a local crime serving a short incarceration period
- An individual in a local facility who will not be transferred to a state or federal facility because they are serving a short term or
- An individual is waiting to be transferred to a state or federal facility.

CASE SCENARIOS

If an otherwise-eligible student is awaiting trial in jail and has not yet been sentenced, and is enrolled in a Title IV-eligible program while in jail, the student is eligible for all Title IV programs. If the student is sentenced to serve in the jail, they must be enrolled in an eligible PEP to receive Pell and are not eligible for Direct Loans.

Suppose someone has been sentenced to serve in a local jail that offers an eligible Title IV program (pre-PEP) or has an approved PEP, under the new provisions and the person is transferred to a State facility. In that case, the otherwise eligible student cannot continue to receive Pell unless the State facility has an eligible PEP.

Let's say the program in the prior scenario is a distance education program. In that case, the student may only continue to receive Pell for their program if the State facility partners with the postsecondary school in which the student is currently completing the distance education program and that program is an eligible PEP. All other applicable regulations (e.g. Subpart P) must be followed.

MORE TO COME

- Guidance on the Department's Fresh Start initiative
  - Impacts on confined or incarcerated borrowers with defaulted loans
- Operational information
  - applying for program eligibility
  - reporting award
  - disbursement information
- Information about other data schools will be required to report
- The Department's annual evaluation report, as required by the *FAFSA Simplification Act*

RESOURCES

REFERENCES

- Institutional Eligibility, Student Assistance General Provisions, and Federal Pell Grant Program https://www.federalregister.gov/documents/2022/07/28/2022-15890/institutional-eligibility-student-assistance-general-provisions-and-federal-pell-grant-program
- Higher Education Act Section 483(t)(2)
- Pell Grant Eligibility for Incarcerated Students Live Webinar https://fsatraining.ed.gov/mod/page/view.php?id=1000
- 34CFR600- Institutional Eligibility Under the Higher Education Act 1965, as Amended
- 34 CFR 668 Subpart P – Prison Education Programs

FSA KNOWLEDGE CENTER

- New "Topics" page for PEPs at: https://fsapartners.ed.gov/knowledge-center/topics/prison-education-programs
- Includes:
  - Final regulation for prison education programs,
  - Dear Colleague Letters
  - Electronic Announcements
  - Pdf of paper FAFSA form for confined or incarcerated students
  - Link to the Office of Postsecondary Education's Q&As
  - Much, much more!!

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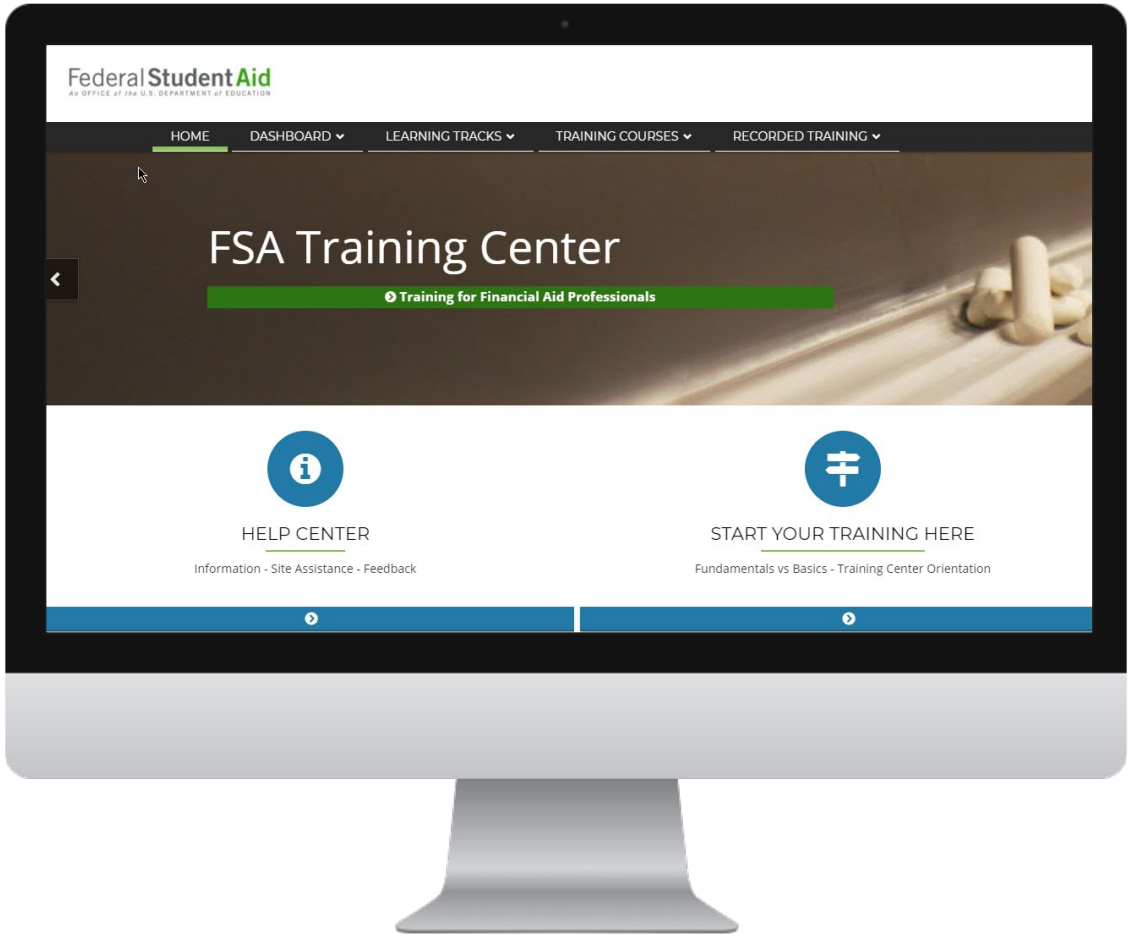

CONTACT

For more questions you can contact:

PEP@ed.gov – Dedicated centralized mailbox for all policy and operational questions related to PEPs.