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Title 34 — Education

Subtitle B — Regulations of the Offices of the Department of Education

Chapter VI — Office of Postsecondary Education, Department of Education

Part 668 — Student Assistance General Provisions

Subpart J — Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process

Source: 75 FR 66960, Oct. 29, 2010, unless otherwise noted.

Authority: 20 U.S.C. 1001-1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, 1099c-1, 1221e-3, and 1231a, unless otherwise noted.

§ 668.156 Approved State process.

(a)

- (1) A State that wishes the Secretary to consider its State process as an alternative to achieving a passing score on an approved, independently administered test or satisfactory completion of at least six credit hours or its recognized equivalent coursework for the purpose of determining a student's eligibility for title IV, HEA program funds must apply to the Secretary for approval of that process.
 - (2) A State's application for approval of its State process must include—
 - (i) The institutions located in the State included in the proposed process, which need not be all of the institutions located in the State;
 - (ii) The requirements that participating institutions must meet to offer eligible career pathway programs through the State process;
 - (iii) A certification that, as of the date of the application, each proposed career pathway program intended for use through the State process constitutes an "eligible career pathway program" as defined in § 668.2 and as documented pursuant to § 668.157;
 - (iv) The criteria used to determine student eligibility for participation in the State process; and
 - (v) For an institution listed for the first time on the application, an assurance that not more than 33 percent of the institution's undergraduate regular students withdrew from the institution during the institution's latest completed award year. For purposes of calculating this rate, the institution must count all regular students who were enrolled during the latest completed award year, except those students who, during that period—
 - (A) Withdrew from, dropped out of, or were expelled from the institution; and
 - (B) Were entitled to and actually received in a timely manner, a refund of 100 percent of their tuition and fees.
- (b) For a State applying for approval for the first time, the Secretary may approve the State process for a two-year initial period if—
- (1) The State's process satisfies the requirements contained in paragraphs (a), (c), and (d) of this section; and

- (2) The State agrees that the total number of students who enroll through the State process during the initial period will total no more than the greater of 25 students or 1.0 percent of enrollment at each institution participating in the State process.

(c) A State process must—

- (1) Allow the participation of only those students eligible under § 668.32(e)(3);
- (2) Monitor on an annual basis each participating institution's compliance with the requirements and standards contained in the State's process, including the success rate as calculated in paragraph (f) of this section;
- (3) Require corrective action if an institution is found to be in noncompliance with the State process requirements;
- (4) Provide a participating institution that has failed to achieve the success rate required under paragraphs (e)(1) and (f) up to three years to achieve compliance;
- (5) Terminate an institution from the State process if the institution refuses or fails to comply with the State process requirements, including exceeding the total number of students referenced in paragraph (b)(2) of this section; and
- (6) Prohibit an institution from participating in the State process for at least five years after termination.

(d)

- (1) The Secretary responds to a State's request for approval of its State process within six months after the Secretary's receipt of that request. If the Secretary does not respond by the end of six months, the State's process is deemed to be approved.
- (2) An approved State process becomes effective for purposes of determining student eligibility for title IV, HEA program funds under this subpart—
 - (i) On the date the Secretary approves the process; or
 - (ii) Six months after the date on which the State submits the process to the Secretary for approval, if the Secretary neither approves nor disapproves the process during that six-month period.

(e) After the initial two-year period described in paragraph (b) of this section, the State must reapply for continued participation and, in its application—

- (1) Demonstrate that the students it admits under that process at each participating institution have a success rate as determined under paragraph (f) of this section that is within 85 percent of the success rate of students with high school diplomas;
- (2) Demonstrate that the State's process continues to satisfy the requirements in paragraphs (a), (c), and (d) of this section; and
- (3) Report information to the Department on the enrollment and success of participating students by eligible career pathway program and by race, gender, age, economic circumstances, and educational attainment, to the extent available.

(f) The State must calculate the success rate for each participating institution as referenced in paragraph (e)(1) of this section by—

- (1) Determining the number of students with high school diplomas or equivalent who, during the applicable award year described in paragraph (g)(1) of this section, enrolled in the same programs as students participating in the State process at each participating institution and—
 - (i) Successfully completed education or training programs;
 - (ii) Remained enrolled in education or training programs at the end of that award year; or
 - (iii) Successfully transferred to and remained enrolled in another institution at the end of that award year;
- (2) Determining the number of students with high school diplomas or equivalent who, during the applicable award year described in paragraph (g)(1) of this section, enrolled in the same programs as students participating in the State process at each participating institution;
- (3) Determining the number of students calculated in paragraph (f)(2) of this section who remained enrolled after subtracting the number of students who subsequently withdrew or were expelled from each participating institution and received a 100 percent refund of their tuition under the institution's refund policies;
- (4) Dividing the number of students determined under paragraph (f)(1) of this section by the number of students determined under paragraph (f)(3) of this section; and
- (5) Making the calculations described in paragraphs (f)(1) through (4) of this section for students who enrolled through a State process in each participating institution.

(g)

- (1) For purposes of paragraph (f) of this section, the applicable award year is the latest complete award year for which information is available.
- (2) If no students are enrolled in an eligible career pathway program through a State process, then the State will receive a one-year extension to its initial approval of its State process.

(h) A State must submit reports on its State process, in accordance with deadlines and procedures established and published by the Secretary in the FEDERAL REGISTER, with such information as the Secretary requires.

(i) The Secretary approves a State process as described in paragraph (e) of this section for a period not to exceed five years.

(j)

- (1) The Secretary withdraws approval of a State process if the Secretary determines that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.
 - (i) If a State has not terminated an institution from the State process under paragraph (c)(5) of this section for failure to meet the success rate, then the Secretary withdraws approval of the State process, except in accordance with paragraph (j)(1)(ii) of this section.
 - (ii) At the Secretary's discretion, under exceptional circumstances, the State process may be approved once for a two-year period.

- (iii) If 50 percent or more participating institutions across all States do not meet the success rate in a given year, then the Secretary may lower the success rate to no less than 75 percent for two years.
- (2) The Secretary provides a State with the opportunity to contest a finding that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.
- (3) If the Secretary upholds the withdrawal of approval of a State process, then the State cannot reapply to the Secretary for a period of five years.

(Approved by the Office of Management and Budget under control number 1845-0049)

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