

#### § 694.4

section 3(b)(1) of the United States Housing Act of 1937.

(Authority: 20 U.S.C. 1070a-22)

#### § 694.4 Which students must a State or Partnership serve when there are changes in the cohort?

(a) *At the school where the cohort began.* A Partnership or State must serve, as part of the cohort, any additional students who—

(1) Are at the grade level of the students in the cohort; and

(2) Begin attending the participating school at which the cohort began to receive GEAR UP services.

(b) *At a subsequent participating school.* If not all of the students in the cohort attend the same school after the cohort completes the last grade level offered by the school at which the cohort began to receive GEAR UP services, a Partnership or a State—

(1) May continue to provide GEAR UP services to all students in the cohort; and

(2) Must continue to provide GEAR UP services to at least those students in the cohort that attend participating schools that enroll a substantial majority of the students in the cohort.

(Authority: 20 U.S.C. 1070a-22)

#### § 694.5 What requirements must be met by a Partnership or State that chooses to provide services to private school students under the program's early intervention component?

(a) *Secular, neutral, and nonideological services or benefits.* Educational services or other benefits, including materials and equipment, provided under GEAR UP by a Partnership or State that chooses to provide those services or benefits to students attending private schools, must be secular, neutral, and nonideological.

(b) *Control of funds.* In the case of a Partnership or State that chooses to provide services under GEAR UP to students attending private schools, the fiscal agent (in the case of a Partnership) or a State agency (in the case of a State) must—

(1) Control the funds used to provide services under GEAR UP to those students;

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(2) Hold title to materials, equipment, and property purchased with GEAR UP funds for GEAR UP program uses and purposes related to those students; and

(3) Administer those GEAR UP funds and property.

(Authority: 20 U.S.C. 1070a-21 to 1070a-28)

#### § 694.6 Who may provide GEAR UP services to students attending private schools?

(a) GEAR UP services to students attending private schools must be provided—

(1) By employees of a public agency; or

(2) Through contract by the public agency with an individual, association, agency, or organization.

(b) In providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be independent of the private school that the students attend, and of any religious organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

(c) Federal funds used to provide GEAR UP services to students attending private schools may not be commingled with non-Federal funds.

(Authority: 1070a-21 to 1070a-28)

#### § 694.7 What are the matching requirements for a GEAR UP Partnership?

(a) *In general.* A Partnership must—

(1) State in its application the percentage of the cost of the GEAR UP project the Partnership will provide for each year from non-Federal funds, subject to the requirements in paragraph (b) of this section; and

(2) Comply with the matching percentage stated in its application for each year of the project period.

(b) *Matching requirements.* (1) Except as provided in paragraph (b)(2) of this section, the non-Federal share of the cost of the GEAR UP project must be not less than 50 percent of the total cost over the project period.

(2) A Partnership that has three or fewer institutions of higher education as members may provide less than 50 percent, but not less than 30 percent, of

the total cost over the project period if it includes—

- (i) A fiscal agent that is eligible to receive funds under Title V, or Part B of Title III, or section 316 or 317 of the HEA, or a local educational agency;
  - (ii) Only participating schools with a 7th grade in which at least 75 percent of the students are eligible for free or reduced-price lunch under the National School Lunch Act; and
  - (iii) Only local educational agencies in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the National School Lunch Act.
- (3) The non-Federal share of the cost of a GEAR UP project may be provided in cash or in-kind.

(Authority: 20 U.S.C. 1070a-23)

**§ 694.8 What are the requirements that a Partnership must meet in designating a fiscal agent for its project under this program?**

Although any member of a Partnership may organize the project, a Partnership must designate as the fiscal agent for its project under GEAR UP—

- (a) A local educational agency; or
- (b) An institution of higher education that is not pervasively sectarian.

(Authority: 20 U.S.C. 1070a-22)

**§ 694.9 What is the maximum indirect cost rate for an agency of a State or local government?**

Notwithstanding 34 CFR 75.560-75.562 and 34 CFR 80.22, the maximum indirect cost rate that an agency of a State or local government receiving funds under GEAR UP may use to charge indirect costs to these funds is the lesser of—

- (a) The rate established by the negotiated indirect cost agreement; or
- (b) Eight percent of a modified total direct cost base.

(Authority: 20 U.S.C. 1070a-21 to 1070a-28)

**§ 694.10 What are the requirements for awards under the program's scholarship component under section 404E of the HEA?**

(a) *Amount of scholarship.* (1) Except as provided in paragraph (a)(2) of this section, the amount of a scholarship awarded under section 404E of the HEA must be at least the lesser of—

(i) 75 percent of the average cost of attendance, as determined under section 472 of the HEA, for in-State students in 4-year programs of instruction at public institutions of higher education in the State; or

(ii) The maximum Federal Pell Grant award funded for the award year in which the scholarship will be awarded.

(2) If a student who is awarded a GEAR UP scholarship attends an institution on a less than full-time basis during any award year, the State or Partnership awarding the GEAR UP scholarship may reduce the scholarship amount, but in no case shall the percentage reduction in the scholarship be greater than the percentage reduction in tuition and fees charged to that student.

(b) *Pell Grant recipient priority.* A State, or a Partnership that chooses to participate in the scholarship component under section 404E of the HEA in its GEAR UP project—

(1) Must award GEAR UP scholarships first to students who will receive, or are eligible to receive, a Federal Pell Grant during the award year in which the GEAR UP scholarship is being awarded and who are eligible for a GEAR UP scholarship under the eligibility requirements in section 404E(d) of the HEA; and

(2) May, if GEAR UP scholarship funds remain after awarding scholarships to students under paragraph (b)(1) of this section, award GEAR UP scholarships to other eligible students (who will not receive a Federal Pell Grant) after considering the need of those students for GEAR UP scholarships.

(c) *Cost of attendance.* A GEAR UP scholarship, in combination with other student financial assistance awarded under any title IV HEA program and any other grant or scholarship assistance, may not exceed the student's cost of attendance.

(d) *Continuation scholarships.* A State, or a Partnership that chooses to participate in the scholarship component in accordance with section 404E of the HEA in its GEAR UP project, must award continuation scholarships in successive award years to each student who received an initial scholarship and