

DEPARTMENT OF EDUCATION**34 CFR Parts 675, 676, and 692****Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program****AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: The Federal Work-Study (FWS), Federal Supplemental Educational Opportunity Grant (FSEOG), and Special Leveraging Educational Assistance Partnership (SLEAP) programs are authorized under the Higher Education Act of 1965 as amended (HEA). We amend the regulations for the FWS, FSEOG, and SLEAP programs to conform them to statutory changes made to the HEA.

DATES: These regulations are effective July 1, 2001.

FOR FURTHER INFORMATION CONTACT:

1. For the FWS and FSEOG programs: Ms. Kathy Gause, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, Room 3045, Washington, DC 20202-5447. Telephone: (202) 708-8242.

2. For the SLEAP Program: Ms. Jackie Butler, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, Room 3045, Washington, DC 20202-5447. Telephone: (202) 708-8242.

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SUPPLEMENTARY INFORMATION:**FWS and FSEOG Programs**

We amend the regulations for the FWS and FSEOG programs to conform them to statutory changes made to the HEA by the Higher Education Amendments of 1998, Public Law 105-244. Institutions participating in the FWS and FSEOG programs normally are required to pay an institutional share under each program. However, certain institutions are eligible for a waiver of those institutional share responsibilities. Prior to the Higher Education Amendments of 1998, the institutions that were eligible for a waiver were those that qualified as eligible institutions under the institutional development programs

authorized under Title III of the HEA. The regulations for the FWS and FSEOG programs identified those Title III, HEA programs in §§ 675.26(d)(2)(i)(A) and 676.21(b)(1), respectively.

The Higher Education Amendments of 1998 moved one of the programs, the Developing Hispanic-Serving Institutions Program, from Title III to Title V of the HEA. It also added two new programs to Title III, the American Indian Tribally Controlled Colleges and Universities Program and the Alaska Native and Native Hawaiian-Serving Institutions Program. We have amended §§ 675.26(d)(2)(i)(A) and 676.21(b)(1) to reflect those statutory changes.

SLEAP Program

We amend the regulations for the SLEAP Program to conform them to statutory changes made to the HEA by section 316 of the "Department of Education Appropriations Act, 2001," Title III of the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as enacted by section 1(a)(1) of Pub. L. 106-554, the "Consolidated Appropriations Act 2001."

The SLEAP Program, a component of the Leveraging Educational Assistance Partnership (LEAP) Program, was added by the Higher Education Amendments of 1998. On November 1, 2000, we published final regulations for the SLEAP Program. However, on December 21, 2000, section 316 of the "Department of Education Appropriations Act, 2001" was enacted which:

- Eliminated the SLEAP authorized activities that provided services to preschool, elementary school, and secondary school students;
- Combined and clarified the existing SLEAP authorized activities for postsecondary students;
- Added a special rule to ensure that the SLEAP Program generates new need-based State funds in excess of the amount the State spent for need-based programs in the 1999-2000 award year (the year before the start of the SLEAP Program); and
- Prohibited the use of SLEAP Program funds to pay any administrative costs.

We have amended §§ 692.50, 692.52, 692.53, 692.54, 692.60 and 692.71, and have added § 692.72, to reflect these statutory changes.

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the

opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes, correct cross-references, and remove obsolete regulatory provisions. The changes do not establish or affect substantive policy. Therefore, the Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary and contrary to the public interest. The Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under section 492(b)(2) of the HEA, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. Although States and State agencies are impacted by these regulations, they are not defined as "small entities" in the Regulatory Flexibility Act. These regulations contain technical amendments designed to clarify and correct current regulations. The changes will not have a significant economic impact on the institutions, State or State agencies affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

The FSEOG and SLEAP programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

The FWS Program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or

authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; 84.069 Leveraging Educational Assistance Partnership Program.)

List of Subjects

34 CFR Parts 675 and 676

Colleges and universities, Employment, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 692

Grant programs—education, Postsecondary education, State administered—education, Student aid—education, Reporting and recordkeeping requirements.

Dated: June 21, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

For the reasons stated in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by amending parts 675, 676, and 692 as follows:

PART 675—FEDERAL WORK-STUDY PROGRAMS

1. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756b, unless otherwise noted.

2. Section 675.26 is amended by revising paragraph (d)(2)(i)(A) and the section authority to read as follows:

§ 675.26 FWS Federal share limitations.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) Is designated as an eligible institution under—

(1) The Developing Hispanic-Serving Institutions Program (34 CFR part 606);

(2) The Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, or Alaska Native and Native Hawaiian-Serving Institutions Program (34 CFR part 607);

(3) The Strengthening Historically Black Colleges and Universities Program (34 CFR part 608); or

(4) The Strengthening Historically Black Graduate Institutions Program (34 CFR part 609); and

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(Authority: 20 U.S.C. 1068d and 1103d; 42 U.S.C. 2753)

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

3. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

4. Section 676.21 is amended by revising paragraph (b)(1) and the section authority to read as follows:

§ 676.21 FSEOG Federal share limitations.

* * * * *

(b) * * *

(1) Is designated as an eligible institution under—

(i) The Developing Hispanic-Serving Institutions Program (34 CFR part 606);

(ii) The Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, or Alaska Native and Native Hawaiian-Serving Institutions Program (34 CFR part 607); or

(iii) The Strengthening Historically Black Colleges and Universities Program (34 CFR part 608); and

* * * * *

(Authority: 20 U.S.C. 1068d, 1103d, and 1070b–2)

PART 692—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

5. The authority citation for part 692 continues to read as follows:

Authority: 20 U.S.C. 1070c through 1070c–4, unless otherwise noted.

6. Section 692.50 is revised to read as follows:

§ 692.50 What is the Special Leveraging Educational Assistance Partnership Program?

The Special Leveraging Educational Assistance Partnership (SLEAP) Program assists States in providing grants, scholarships, and community service work-study assistance to eligible students who attend institutions of higher education and demonstrate financial need.

(Authority: 20 U.S.C. 1070c–3a)

7. Section 692.52 is revised to read as follows:

§ 692.52 What definitions apply to the SLEAP Program?

The definitions listed in § 692.4 apply to the SLEAP Program.

(Authority: 20 U.S.C. 1070c–3a)

8. Section 692.53 is amended by revising paragraph (c) to read as follows:

§ 692.53 What requirements must a State satisfy to receive SLEAP Program funds?

* * * * *

(c) Have a program that satisfies the requirements in § 692.21(a), (b), (d), (e), (f), (g), (j), and (k).

9. Section 692.54 is revised to read as follows:

§ 692.54 What eligibility requirements must a student satisfy to participate in the SLEAP Program?

To receive assistance under the SLEAP Program, a student must meet the eligibility requirements contained in § 692.40.

(Authority: 20 U.S.C. 1070c–3a)

10. Section 692.60 is amended by revising paragraph (b); redesignating paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and adding a new paragraph (c) to read as follows:

§ 692.60 What must a State do to receive an allotment under the SLEAP Program?

* * * * *

(b) Identify the activities in § 692.71 for which it plans to use the SLEAP Federal and non-Federal funds;

(c) Ensure that the non-Federal funds used as matching funds represent dollars that are in excess of the total dollars that a State spent for need-based grants, scholarships, and work-study assistance for fiscal year 1999, including the State funds reported as part of its LEAP Program;

* * * * *

11. Section 692.71 is revised to read as follows:

§ 692.71 What activities may be funded under the SLEAP Program?

A State may use the funds it receives under the SLEAP Program for one or more of the following activities:

(a) Supplement LEAP grant awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP grant award amounts for students; or

(2) Increasing the number of students receiving LEAP grant awards.

(b) Supplement LEAP community service work-study awards to eligible students who demonstrate financial need by—

(1) Increasing the LEAP community service work-study award amounts for students; or

(2) Increasing the number of students receiving LEAP community service work-study awards.

(c) Award scholarships to eligible students who demonstrate financial need and who—

(1) Demonstrate merit or academic achievement; or

(2) Wish to enter a program of study leading to a career in—

(i) Information technology;

(ii) Mathematics, computer science, or engineering;

(iii) Teaching; or

(iv) Other fields determined by the State to be critical to the State's workforce needs.

(Authority: 20 U.S.C. 1070c-3a)

12. Section 692.72 is added to read as follows:

§ 692.72 May a State use the funds it receives under the SLEAP Program to pay administrative costs?

A State may not use any of the funds it receives under the SLEAP Program to pay any administrative costs.

(Authority: 20 U.S.C. 1070c-3a)

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