

**§ 403.115**

**34 CFR Ch. IV (7-1-01 Edition)**

**§ 403.115 What appeal procedures must be established under the Secondary School Vocational Education Program?**

The State board shall establish an appeals procedure for resolution of any dispute arising between an LEA and an area vocational education school or an intermediate educational agency with respect to the allocation procedures described in §§ 403.112 and 403.113, including the decision of an LEA to leave a consortium.

CROSS-REFERENCE: See 34 CFR 76.401, Disapproval of an application—opportunity for a hearing.

(Approved by the Office of Management and Budget under Control No. 1830-0029)

(Authority: 20 U.S.C. 2341(d)(4))

**§ 403.116 How does a State allocate funds under the Postsecondary and Adult Vocational Education Programs?**

(a) *Reservation of funds.* From the portion of its allotment under § 403.180(b)(1) for the basic programs, each fiscal year a State may reserve funds for the Postsecondary and Adult Vocational Education Programs.

(b) *General rule.* (1) A State shall distribute funds reserved for Postsecondary and Adult Vocational Education Programs to eligible institutions or consortia of eligible institutions within the State.

(2) Except as provided in paragraph (c) of this section and §§ 403.118 and 403.119, each eligible institution or consortium of eligible institutions must receive an amount that bears the same relationship to the amount of funds reserved for the Postsecondary and Adult Vocational Education Programs as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of § 403.111, including meeting the definition of vocational education in 34 CFR 400.4, offered by the eligible institution or consortium of eligible institutions in the fiscal or program year preceding the fiscal or program year in which the allocation is made bears to the number of those recipients enrolled in these programs within the State in that preceding year.

(c) *Minimum grant amount.* (1) A State may not provide a grant under paragraph (b) of this section to any institution or consortium of eligible institutions for an amount that is less than \$50,000.

(2) Any amounts that are not allocated by reason of paragraph (c)(1) of this section must be redistributed to eligible institutions or consortia of eligible institutions in accordance with the provisions of paragraph (b) of this section.

(d) In order for a consortium of eligible institutions to receive assistance under this section, the consortium must operate joint projects that—

(1) Provide services to all postsecondary institutions participating in the consortium; and

(2) Are of sufficient size, scope, and quality as to be effective.

(Authority: 20 U.S.C. 2341a (a) and (c))

[57 FR 36735, Aug. 14, 1992, as amended at 59 FR 38513, July 28, 1994]

**§ 403.117 What definitions apply to the Postsecondary and Adult Vocational Education Programs?**

For the purposes of §§ 403.116, 403.118, and 403.120 the following definitions apply:

(a) *Eligible institution* means an institution of higher education, an LEA serving adults, or an area vocational education school serving adults that offers or will offer a program that meets the requirements of § 403.111 and seeks to receive assistance under § 403.116.

(b)(1) *Institution of higher education* means an educational institution in any State that—

(i) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate, or who are beyond the age of compulsory school attendance;

(ii) Is legally authorized within the State to provide a program of education beyond secondary education;

(iii) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, or in the

case of a hospital or health care facility, that provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of that training;

(iv) Is a public or other nonprofit institution; and

(v) Is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited—

(A) Is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

(B) Is an institution whose credits are accepted, on transfer, by not less than three institutions that are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(2) This term also includes any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (b)(1) (i), (ii), (iv), and (v) of this definition. If the Secretary determines that a particular category of these schools does not meet the requirements of paragraph (b)(1)(v) because there is no nationally recognized accrediting agency or association qualified to accredit schools in that category, the Secretary, pending the establishment of such an accrediting agency or association, appoints an advisory committee, composed of persons specially qualified to evaluate training provided by schools in that category, that must—

(i) Prescribe the standards of content, scope, and quality that must be met in order to qualify schools in that category to participate in the program pursuant to this part; and

(ii) Determine whether particular schools not meeting the requirements

of paragraph (b)(1)(v) of this definition meet those standards.

(Authority: 20 U.S.C. 1085)

(c) *Pell Grant recipient* means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a-1 *et seq.*).

(Authority: 20 U.S.C. 2341a(d))

**§ 403.118 Under what circumstances may the Secretary waive the distribution requirements for the Postsecondary and Adult Vocational Education Programs?**

The Secretary may waive § 403.116(b)(2) for any fiscal or program year for which a State submits to the Secretary an application for such a waiver that—

(a) Demonstrates that the formula in § 403.116(b)(2) does not result in a distribution of funds to the institutions or consortia of eligible institutions within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution.

(b) Includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions or consortia of eligible institutions within the State who—

(1) Receive need-based postsecondary financial aid provided from public funds;

(2) Are members of families participating in the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601);

(3) Are enrolled in postsecondary educational institutions that—

(i) Are funded by the State;

(ii) Do not charge tuition; and

(iii) Serve only economically disadvantaged students;

(4) Are enrolled in programs serving economically disadvantaged adults;

(5) Are participants in programs assisted under the JTPA;

(6) Are Pell Grant recipients; and

(c) Proposes an alternative formula that—