

(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);

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(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—

- (1) Includes direct counts of students enrolled in the institutions or consortia of eligible institutions;
- (2) Directly relates to the status of students as economically disadvantaged individuals;
- (3) Is to be uniformly applied to all eligible institutions;
- (4) Does not include fund pools for specific types of institutions or consortia of eligible institutions;
- (5) Does not include the direct assignment of funds to a particular institution or consortium of eligible institutions on a non-formula basis; and
- (6) Identifies a more accurate count of economically disadvantaged individuals in the aggregate than does the formula in § 403.116(b)(2).

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

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

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

§ 403.119 Under what circumstances may the State waive the distribution requirements for Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Programs?

(a) This section applies in any fiscal or program year in which a State reserves 15 percent or less under § 403.180(b)(1) for distribution under—

- (1) The Secondary School Vocational Education Program; or
- (2) The Postsecondary and Adult Vocational Education Programs.

(b) Notwithstanding the provisions and § 403.112, § 403.113, or § 403.116, as applicable, in order to result in a more equitable distribution of funds for programs serving the highest numbers of economically disadvantaged individ-

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uals, the State may distribute the funds described in paragraph (a) of this section—

- (1) On a competitive basis; or
- (2) Through any alternative method determined by the State.

(Authority: 20 U.S.C. 2341b)

§ 403.120 How does a State reallocate funds under the Secondary School Vocational Education Program and the Postsecondary and Adult Vocational Education Programs?

(a) In any fiscal or program year that an LEA, area vocational school, intermediate school district, or consortium of those entities, or an eligible institution, or consortium of eligible institutions, does not obligate all of the amounts it is allocated for that year under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Programs, the LEA, area vocational education school, intermediate school district, or consortium of those entities, or the eligible institution, or consortium of eligible institutions, shall return any unobligated amounts to the State to be reallocated under § 403.112(b), § 403.113, or § 403.116(b), as applicable.

(b) In any fiscal or program year in which amounts allocated under § 403.112(b), § 403.113, § 403.116(b), or § 403.118 are returned to the State and the State is unable to reallocate those amounts according to those sections in time for the amounts to be obligated in the fiscal or program year, the State shall retain the amounts to be distributed in combination with amounts reserved under § 403.112(b), § 403.113, § 403.116(b), or § 403.118 for the following fiscal or program year.

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

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