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The following sections to Part A of the HEA have also been repealed.

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§400 [20 U.S.C. 1070] Statement of purpose; program authorization

(a) Purpose

It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484 [20 U.S.C. 1091]) in institutions of higher education by—

1. providing Federal Pell Grants to all eligible students;
2. providing supplemental educational opportunity grants to those students who demonstrate financial need;
3. providing for payments to the States to assist them in making financial aid available to such students;
4. providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and
5. providing assistance to institutions of higher education.

(b) Secretary required to carry out purposes

The Secretary shall, in accordance with subparts 1 through 9, carry out programs to achieve the purposes of this part.

(a) Program authority and method of distribution

(1) For each fiscal year through fiscal year 2017, the Secretary shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484[20 U.S.C. 1091]) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a Federal Pell Grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Grants made under this subpart shall be known as “Federal Pell Grants”.

(b) Purpose and amount of grants

(1) The purpose of this subpart is to provide a Federal Pell Grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student’s cost of attendance (as defined in section 472 [20 U.S.C. 1087ll]), unless the institution determines that a greater amount of assistance would better serve the purposes of this section.

(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

(i) the maximum Federal Pell Grant, as specified in the last enacted appropriation Act applicable to that award year, plus

(ii) the amount of the increase calculated under paragraph (7)(B) for that year, less

(iii) an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the Federal Pell Grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 [20 U.S.C. 1089] of this section.

(3) No Federal Pell Grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 472 [20 U.S.C. 1087ll]) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a Federal Pell Grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the Federal Pell Grant shall be reduced until the combination of expected family contribution and the amount of the Federal Pell Grant does not exceed the cost of attendance at such institution.

(4) No Federal Pell Grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than ten percent of the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A) for such academic year.

(5) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the Federal Pell Grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student’s home institution, except that the amount of such Federal Pell Grant in any fiscal year shall not exceed the
maximum amount of a Federal Pell Grant award determined under paragraph (2)(A), for which a student is eligible during such award year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution’s cost, to determine the cost of attendance of the student.

(6) No Federal Pell Grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution or who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense (as determined in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program).

(7) Additional funds.—

(A) In general.—There are authorized to be appropriated, and there are appropriated (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated) the following amounts—

(i) $2,030,000,000 for fiscal year 2008;

(ii) $2,090,000,000 for fiscal year 2009;

(iii) to carry out subparagraph (B) of this paragraph, such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year to provide the amount of increase of the maximum Federal Pell Grant required by clauses (ii) and (iii) of subparagraph (B); and

(iv) to carry out this section—

(I) $13,500,000,000 for fiscal year 2011;

(II) $13,795,000,000 for fiscal year 2012;

(III) $7,587,000,000 for fiscal year 2013;

(IV) $588,000,000 for fiscal year 2014;

(V) $0 for fiscal year 2015;

(VI) $0 for fiscal year 2016;

(VII) $1,574,000,000 for fiscal year 2017;

(VIII) $1,382,000,000 for fiscal year 2018;

(IX) $1,409,000,000 for fiscal year 2019;

(X) $1,430,000,000 for fiscal year 2020; and

(XI) $1,145,000,000 for fiscal year 2021 and each succeeding fiscal year.

(B) Increase in Federal Pell Grants.—The amounts made available pursuant to clauses (i) through (iii) of subparagraph (A) of this paragraph shall be used to increase the amount of the maximum Federal Pell Grant for which a student shall be eligible during an award year, as specified in the last enacted appropriation Act applicable to that award year, by—

(i) $490 for each of the award years 2008–2009 and 2009–2010;

(ii) $690 for each of the award years 2010–2011, 2011–2012, and 2012–2013; and

(iii) the amount determined under subparagraph (C) for each succeeding award year.

(C) Adjustment amounts.—

(i) Award year 2013–2014.—For award year 2013–2014, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) $5,550 or the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), whichever is greater, increased by a percentage equal to the annual adjustment percentage for award year 2013–2014, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.
(ii) Award years 2014–2015 through 2017–2018.—For each of the award years 2014–2015 through 2017–2018, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), increased by a percentage equal to the annual adjustment percentage for the award year for which the amount under this subparagraph is being determined, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.

(iii) Subsequent award years.—For award year 2018–2019 and each subsequent award year, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to the amount determined under clause (ii) for award year 2017–2018.

(iv) Definitions.—For purposes of this subparagraph—

(I) the term “annual adjustment percentage” as applied to an award year, is equal to the estimated percentage change in the Consumer Price Index (as determined by the Secretary, using the definition in section 478(f)) for the most recent calendar year ending prior to the beginning of that award year; and

(II) the term “total maximum Federal Pell Grant” as applied to a preceding award year, is equal to the sum of—

(aa) the maximum Federal Pell Grant for which a student is eligible during an award year, as specified in the last enacted appropriation Act applicable to that preceding award year; and

(bb) the amount of the increase in the maximum Federal Pell Grant required by this paragraph for that preceding award year.

(D) Program requirements and operations otherwise unaffected.—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements and operations of the Federal Pell Grant Program as authorized under this section, or authorize the imposition of additional requirements or operations for the determination and allocation of Federal Pell Grants under this section.

(E) Ratable increases and decreases.—The amounts specified in subparagraph (B) shall be ratably increased or decreased to the extent that funds available under subparagraph (A) exceed or are less than (respectively) the amount required to provide the amounts specified in subparagraph (B).

(F) Availability of funds.—The amounts made available by subparagraph (A) for any fiscal year shall be available beginning on October 1 of that fiscal year, and shall remain available through September 30 of the succeeding fiscal year.

(B)(A) Effective in the 2017–2018 award year and thereafter, the Secretary shall award an eligible student not more than one and one-half Federal Pell Grants during a single award year to permit such student to work toward completion of an eligible program if, during that single award year, the student—

(i) has received a Federal Pell Grant for an award year and is enrolled in an eligible program for one or more additional payment periods during the same award year that are not otherwise fully covered by the student’s Federal Pell Grant; and

(ii) is enrolled on at least a half-time basis while receiving any funds under this section.

(B) In the case of a student receiving more than one Federal Pell Grant in a single award year under subparagraph (A), the total amount of Federal Pell Grants awarded to such student for the award year may exceed the maximum basic grant level specified in the appropriate appropriations Act for such award year.

(C) Any period of study covered by a Federal Pell Grant awarded under subparagraph (A) shall be included in determining a student’s duration limit under subsection (c)(5).

(D) In any case where an eligible student is receiving a Federal Pell Grant for a payment period that spans two award years, the Secretary shall allow the eligible institution in which the student is enrolled to determine the award year to which the additional period shall be assigned, as it determines is most beneficial to students.

(c) Period of eligibility for grants

(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the

student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a basic Grant if the student—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

(B) is enrolled or accepted for enrollment in a post baccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.

(5) The period during which a student may receive Federal Pell Grants shall not exceed 12 semesters, or the equivalent of 12 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits.

(d) Applications for grants

(1) The Secretary shall from time to time set dates by which students shall file applications for Federal Pell Grants under this subpart.

(2) Each student desiring a Federal Pell Grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) Distribution of grants to students

Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student’s account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student’s account.

(f) Calculation of eligibility

(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a Federal Pell Grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.
(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees.

(g) Insufficient appropriations

If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) Use of excess funds

(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) Treatment of institutions and students under other laws

Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690.

(j) Institutional ineligibility based on default rates

(1) In general

No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or D as a result of a final default rate determination made by the Secretary under part B or D after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

(2) Sanctions subject to appeal opportunity

No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution's default rate determination under regulations issued by the Secretary for the loan program authorized under part B or D, as applicable. This subsection shall not apply to an institution that was not participating in the loan program authorized under part B or D on the date of enactment of the Higher Education Amendments of 1998, unless the institution subsequently participates in the loan programs.

(a) Academic competitiveness grant program authorized
The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.

(b) Designation
A grant under this section—

(1) for the first or second year of a program of undergraduate education shall be known as an “Academic Competitiveness Grant”; and

(2) for the third, fourth, or fifth year of a program of undergraduate education shall be known as a "National Science and Mathematics Access to Retain Talent Grant" or a "National SMART Grant".

(c) Definition of eligible student
In this section the term “eligible student” means a student who, for the award year for which the determination of eligibility is made for a grant under this section—

(1) is eligible for a Federal Pell Grant;

(2) is enrolled or accepted for enrollment in an institution of higher education on not less than a half-time basis; and

(3) in the case of a student enrolled or accepted for enrollment in—

(A) the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—

(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study that prepares students for college and is recognized as such by the State official designated for such recognition, or with respect to any private or home school, the school official designated for such recognition, consistent with State law, which recognized program shall be reported to the Secretary; and

(ii) has not been previously enrolled in a program of undergraduate education, except as part of a secondary school program of study;

(B) the second year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)—

(i)(I) successfully completes, after January 1, 2005, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first year of such program of undergraduate education;

(C) the third or fourth year of a program of undergraduate education at a four-year degree-granting institution of higher education—

(i) is certified by the institution to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and
(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i);

(D) the third or fourth year of a program of undergraduate education at an institution of higher education (as defined in section 101(a) [20 U.S.C. 1001(a)]), is attending an institution that demonstrates, to the satisfaction of the Secretary, that the institution—

(i) offers a single liberal arts curriculum leading to a baccalaureate degree, under which students are not permitted by the institution to declare a major in a particular subject area, and the student—

(I)(aa) studies, in such years, a subject described in subparagraph (C)(i) that is at least equal to the requirements for an academic major at an institution of higher education that offers a baccalaureate degree in such subject, as certified by an appropriate official from the institution; and

(bb) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the relevant coursework; or

(II) is required, as part of the student’s degree program, to undertake a rigorous course of study in mathematics, biology, chemistry, and physics, which consists of at least—

(aa) 4 years of study in mathematics; and

(bb) 3 years of study in the sciences, with a laboratory component in each of those years; and

(ii) offered such curriculum prior to February 8, 2006; or

(E) the fifth year of a program of undergraduate education that requires 5 full years of coursework, as certified by the appropriate official of the degree-granting institution of higher education, for which a baccalaureate degree is awarded by a degree-granting institution of higher education—

(i) is certified by the institution of higher education to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent, as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).

(d) Grant award

(1) Amounts

(A) In general

The Secretary shall award a grant under this section in the amount of—

(i) $750 for an eligible student under subsection (c)(3)(A);

(ii) $1,300 for an eligible student under subsection (c)(3)(B);

(iii) $4,000 for an eligible student under subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or

(iv) $4,000 for an eligible student under subsection (c)(3)(E).

(B) Limitation; ratable reduction

Notwithstanding subparagraph (A)—

(i) in any case in which a student attends an institution of higher education on less than a full-time basis, the amount of the grant that such student may receive shall be reduced in the same manner as a Federal Pell Grant is reduced under section 401(b)(2)(B) [20 U.S.C. 1070a(b)(2)(B)];

(ii) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student’s cost of attendance;

(iii) if the amount made available under subsection (e) for any fiscal year is less than the amount required to be provided grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and
(iv) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

(2) Limitations

(A) No grants for previous credit

The Secretary may not award a grant under this section to any student for any year of a program of undergraduate education for which the student received credit before February 8, 2006.

(B) Number of grants

The Secretary may not award more than one grant to a student described in subsection (c)(3) for each year of study described in such subsection.

(3) Calculation of grant payments

An institution of higher education shall make payments of a grant awarded under this section in the same manner, using the same payment periods, as such institution makes payments for Federal Pell Grants under section 401 [20 U.S.C. 1070a].

(e) Funding

(1) Authorization and appropriation of funds

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

(A) $790,000,000 for fiscal year 2006;
(B) $850,000,000 for fiscal year 2007;
(C) $920,000,000 for fiscal year 2008;
(D) $960,000,000 for fiscal year 2009; and
(E) $1,010,000,000 for fiscal year 2010.

(2) Availability of funds

Funds made available under paragraph (1) for a fiscal year shall remain available for the succeeding fiscal year.

(f) Recognition of programs of study

The Secretary shall recognize not less than one rigorous secondary school program of study in each State under subparagraphs (A) and (B) of subsection (c)(3) for the purpose of determining student eligibility under such subsection.

(g) Sunset provision

The authority to make grants under this section shall expire at the end of award year 2010–2011.

Title 20—Education  
Chapter 28—Higher Education Resources and Student Assistance  
Subchapter IV—Student Assistance  
Part A—Grants to Students in Attendance at Institutions of Higher Education  
Subpart 2—Federal early outreach and student services programs  
Division 1—Federal TRIO Programs


(a) Grants and contracts authorized

The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) Recipients, duration, and size

(1) Recipients

For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, including community-based organizations with experience in serving disadvantaged youth, combinations of such institutions, agencies and organizations, and, as appropriate to the purposes of the program, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this chapter.

(2) Duration

Grants or contracts made under this chapter shall be awarded for a period of 5 years, except that—

(A) in order to synchronize the awarding of grants for programs under this chapter, the Secretary may, under such terms as are consistent with the purposes of this chapter, provide a one-time, limited extension of the length of such an award;

(B) grants made under section 402G [20 U.S.C. 1070a–17] shall be awarded for a period of 2 years; and

(C) grants under section 402H [20 U.S.C. 1070a–18] shall be awarded for a period determined by the Secretary.

(3) Minimum grants

Unless the institution or agency requests a smaller amount, an individual grant authorized under this chapter shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 402G [20 U.S.C. 1070a–17] shall be awarded in an amount that is not less than $170,000.

(c) Procedures for awarding grants and contracts

(1) Application requirements

An eligible entity that desires to receive a grant or contract under this chapter shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

(2) Considerations

(A) Prior experience

In making grants under this chapter, the Secretary shall consider each applicant’s prior experience of high quality service delivery, as determined under subsection (f), under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 402H [20 U.S.C. 1070a–18] shall not be given prior experience consideration.

(B) Participant need

In making grants under this chapter, the Secretary shall consider the number, percentages, and needs of eligible participants in the area, institution of higher education, or secondary school to be served to aid such participants in preparing for, enrolling in, or succeeding in postsecondary education, as appropriate to the particular program for which the eligible entity is applying.

(3) Order of awards; program fraud
Program authority; authorization of appropriations

(A) Except with respect to grants made under sections 402G [20 U.S.C. 1070a–17] and 402H [20 U.S.C. 1070a–18] and as provided in subparagraph (B), the Secretary shall award grants and contracts under this chapter in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

(B) The Secretary shall not provide assistance to a program otherwise eligible for assistance under this chapter, if the Secretary has determined that such program has involved the fraudulent use of funds under this chapter.

(4) Peer review process

(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this chapter. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this chapter is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

(5) Number of applications for grants and contracts

The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this chapter if the additional applications describe programs serving different populations or different campuses.

(6) Coordination with other programs for disadvantaged students

The Secretary shall encourage coordination of programs assisted under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this chapter because such entity sponsors a program similar to the program to be assisted under this chapter, regardless of the funding source of such program. The Secretary shall permit the Director of a program receiving funds under this chapter to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs. The Secretary shall, as appropriate, require each applicant for funds under the programs authorized by this chapter to identify and make available services under such program, including mentoring, tutoring, and other services provided by such program, to foster care youth (including youth in foster care and youth who have left foster care after reaching age 13) or to homeless children and youths as defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a].

(7) Application status

The Secretary shall inform each entity operating programs under this chapter regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this chapter, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this chapter for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(8) Review and notification by the Secretary

(A) Guidance

Not later than 180 days after the date of enactment of the Higher Education Opportunity Act, August 14, 2008, the Secretary shall issue nonregulatory guidance regarding the rights and responsibilities of applicants with respect to the application and evaluation process for programs and projects assisted under this chapter, including applicant access to peer review comments. The guidance shall describe the procedures for the submission, processing, and scoring of applications for grants under this chapter, including—

(i) the responsibility of applicants to submit materials in a timely manner and in accordance with the processes established by the Secretary under the authority of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(ii) steps the Secretary will take to ensure that the materials submitted by applicants are processed in a proper and timely manner;

(iii) steps the Secretary will take to ensure that prior experience points for high quality service delivery are awarded in an accurate and transparent manner;
(iv) steps the Secretary will take to ensure the quality and integrity of the peer review process, including assurances that peer reviewers will consider applications for grants under this chapter in a thorough and complete manner consistent with applicable Federal law; and

(v) steps the Secretary will take to ensure that the final score of an application, including prior experience points for high quality service delivery and points awarded through the peer review process, is determined in an accurate and transparent manner.

(B) Updated guidance

Not later than 45 days before the date of the commencement of each competition for a grant under this chapter that is held after the expiration of the 180-day period described in subparagraph (A), the Secretary shall update and publish the guidance described in such subparagraph.

(C) Review

(i) In general

With respect to any competition for a grant under this chapter, an applicant may request a review by the Secretary if the applicant—

(I) has evidence of a specific technical, administrative, or scoring error made by the Department, an agent of the Department, or a peer reviewer, with respect to the scoring or processing of a submitted application; and

(II) has otherwise met all of the requirements for submission of the application.

(ii) Technical or administrative error

In the case of evidence of a technical or administrative error listed in clause (i)(I), the Secretary shall review such evidence and provide a timely response to the applicant. If the Secretary determines that a technical or administrative error was made by the Department or an agent of the Department, the application of the applicant shall be reconsidered in the peer review process for the applicable grant competition.

(iii) Scoring error

In the case of evidence of a scoring error listed in clause (i)(I), when the error relates to either prior experience points for high quality service delivery or to the final score of an application, the Secretary shall—

(I) review such evidence and provide a timely response to the applicant; and

(II) if the Secretary determines that a scoring error was made by the Department or a peer reviewer, adjust the prior experience points or final score of the application appropriately and quickly, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(iv) Error in peer review process

(I) Referral to secondary review

In the case of a peer review process error listed in clause (i)(I), if the Secretary determines that points were withheld for criteria not required in Federal statute, regulation, or guidance governing a program assisted under this chapter or the application for a grant for such program, or determines that information pertaining to selection criteria was wrongly determined to be missing from an application by a peer reviewer, then the Secretary shall refer the application to a secondary review panel.

(II) Timely review; replacement score

The secondary review panel described in subclause (I) shall conduct a secondary review in a timely fashion, and the score resulting from the secondary review shall replace the score from the initial peer review.

(III) Composition of secondary review panel

The secondary review panel shall be composed of reviewers each of whom—

(aa) did not review the application in the original peer review;

(bb) is a member of the cohort of peer reviewers for the grant program that is the subject of such secondary review; and

(cc) to extent practicable, has conducted peer reviews in not less than two previous competitions for the grant program that is the subject of such secondary review.

(IV) Final score
The final peer review score of an application subject to a secondary review under this clause shall be adjusted appropriately and quickly using the score awarded by the secondary review panel, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(V) Qualification for secondary review

To qualify for a secondary review under this clause, an applicant shall have evidence of a scoring error and demonstrate that—

(aa) points were withheld for criteria not required in statute, regulation, or guidance governing the Federal TRIO programs or the application for a grant for such programs; or

(bb) information pertaining to selection criteria was wrongly determined to be missing from the application.

(v) Finality

(I) In general

A determination by the Secretary under clause (i), (ii), or (iii) shall not be reviewable by any officer or employee of the Department.

(II) Scoring

The score awarded by a secondary review panel under clause (iv) shall not be reviewable by any officer or employee of the Department other than the Secretary.

(vi) Funding of applications with certain adjusted scores

To the extent feasible based on the availability of appropriations, the Secretary shall fund applications with scores that are adjusted upward under clauses (ii), (iii), and (iv) to equal or exceed the minimum cut off score for the applicable grant competition.

(d) Outreach

(1) In general

The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this chapter submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter.

(2) Notice

In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this chapter and shall consult national, State, and regional organizations about candidates for notification.

(3) Technical assistance

The Secretary shall provide technical training to applicants for projects and programs authorized under this chapter. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) Special rule

The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) Documentation of status as a low-income individual

(1) Except in the case of an independent student, as defined in section 480(d) [20 U.S.C. 1087vv(d)], documentation of an individual’s status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual’s parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 480(d) [20 U.S.C. 1087vv(d)], documentation of an individual's status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual;
(B) verification from another governmental source;
(C) a signed financial aid application; or
(D) a signed United States or Puerto Rico income tax return.

(3) notwithstanding this subsection and subsection (h)(4), individuals who are foster care youth (including youth in foster care and youth who have left foster care after reaching age 13), or homeless children and youths as defined in section 725 of the McKinney-Vento Homeless Assistance Act, shall be eligible to participate in programs under sections 402B [20 U.S.C. 1070a–12], 402C [20 U.S.C. 1070a–13], 402D [20 U.S.C. 1070a–14], and 402F [20 U.S.C. 1070a–16].

(f) Outcome criteria

(1) Use for prior experience determination

For competitions for grants under this chapter that begin on or after January 1, 2009, the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required under subsection (c)(2), based on the outcome criteria described in paragraphs (2) and (3).

(2) Disaggregation of relevant data

The outcome criteria under this subsection shall be disaggregated by low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

(3) Contents of outcome criteria

The outcome criteria under this subsection shall measure, annually and for longer periods, the quality and effectiveness of programs authorized under this chapter and shall include the following:

(A) For programs authorized under section 402B [20 U.S.C. 1070a–12], the extent to which the eligible entity met or exceeded the entity's objectives established in the entity's application for such program regarding—

(i) the delivery of service to a total number of students served by the program;
(ii) the continued secondary school enrollment of such students;
(iii) the graduation of such students from secondary school with a regular secondary school diploma in the standard number of years;
(iv) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;
(v) the enrollment of such students in an institution of higher education; and
(vi) to the extent practicable, the postsecondary education completion of such students.

(B) For programs authorized under section 402C [20 U.S.C. 1070a–13], the extent to which the eligible entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;
(ii) such students’ school performance, as measured by the grade point average, or its equivalent;
(iii) such students’ academic performance, as measured by standardized tests, including tests required by the students’ State;
(iv) the retention in, and graduation from, secondary school of such students;
(v) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;
(vi) the enrollment of such students in an institution of higher education; and
(vii) to the extent practicable, the postsecondary education completion of such students.

(C) For programs authorized under section 402D [20 U.S.C. 1070a–14]—

(i) the extent to which the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

(ii) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding the percentage of such students’ completion of the degree programs in which such students were enrolled; or

(ii) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which such students met or exceeded the entity's objectives regarding—

(aa) the completion of a degree or certificate by such students; and

(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

(iii) the extent to which the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

(iv) the extent to which the entity met or exceeded the entity's objectives regarding the students served under the program who remain in good academic standing.

(D) For programs authorized under section 402E [20 U.S.C. 1070a–15], the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

(ii) the provision of appropriate scholarly and research activities for the students served by the program;

(iii) the acceptance and enrollment of such students in graduate programs; and

(iv) the continued enrollment of such students in graduate study and the attainment of doctoral degrees by former program participants.

(E) For programs authorized under section 402F [20 U.S.C. 1070a–16], the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

(ii) the enrollment of secondary school graduates who were served by the program in programs of postsecondary education;

(iii) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period; and

(iv) the provision of assistance to students served by the program in completing financial aid applications and college admission applications.

(4) Measurement of progress
In order to determine the extent to which each outcome criterion described in paragraph (2) or (3) is met or exceeded, the Secretary shall compare the agreed upon target for the criterion, as established in the eligible entity's application approved by the Secretary, with the results for the criterion, measured as of the last day of the applicable time period for the determination for the outcome criterion.

(g) Authorization of appropriations
For the purpose of making grants and contracts under this chapter, there are authorized to be appropriated $900,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years. Of the amount appropriated under this chapter, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers.

(h) Definitions
For the purpose of this chapter:

(1) Different campus
The term “different campus” means a site of an institution of higher education that—

(A) is geographically apart from the main campus of the institution;
(B) is permanent in nature; and
(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

(2) Different population
The term “different population” means a group of individuals that an eligible entity desires to serve through an application for a grant under this chapter, and that—

(A) is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or
(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this chapter to serve, has distinct needs for specialized services.

(3) First generation college student
The term “first generation college student” means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or
(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(4) Low-income individual
The term “low-income individual” means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(5) Veteran eligibility
No veteran shall be deemed ineligible to participate in any program under this chapter by reason of such individual’s age who—

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;
(B) served on active duty and was discharged or released therefrom because of a service connected disability;
(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 30 days; or
(D) was a member of a reserve component of the Armed Forces who served on active duty in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code) on or after September 11, 2001.

(6) Waiver
The Secretary may waive the service requirements in subparagraph (A), (B), or (C) of paragraph (5) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this chapter.


(a) Program authority
The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of, and facilitate the application for, student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level to enter or reenter, and complete such programs.

(b) Required services
Any project assisted under this section shall provide—

(1) connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses;

(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a) [20 U.S.C. 1090(a)];

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) connections to education or counseling services designed to improve the financial literacy and economic literacy of students or the students’ parents, including financial planning for postsecondary education.

(c) Permissible services
Any project assisted under this section may provide services such as—

(1) academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) personal and career counseling or activities;

(3) information and activities designed to acquaint youth with the range of career options available to the youth;

(4) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

(5) workshops and counseling for families of students served;

(6) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

(7) programs and activities as described in subsection (b) or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and

youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402F [20 U.S.C. 1070a–16];

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402F [20 U.S.C. 1070a–16]; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(a) Program authority
The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) Required services
Any project assisted under this section shall provide—

(1) academic tutoring to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in secondary and postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a) [20 U.S.C. 1090(a)];

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students’ parents, including financial planning for postsecondary education.

(c) Additional required services for multiple-year grant recipients
Any project assisted under this section which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) Permissible services
Any project assisted under this section may provide such services as—

(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(2) information, activities, and instruction designed to acquaint youth participating in the project with the range of career options available to the youth;

(3) on-campus residential programs;

(4) mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(6) special services, including mathematics and science preparation, to enable veterans to make the transition to postsecondary education; and

(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless

children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(e) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or students who have a high risk for academic failure;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section; and

(5) require an assurance that no student will be denied participation in a project assisted under this section because the student will enter the project after the 9th grade.

(f) Maximum stipends

Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during the summer school recess, for a period not to exceed three months, except that youth participating in a work-study position under subsection (d)(5) may be paid a stipend of $300 per month during the summer school recess, for a period not to exceed three months. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.

(g) Additional funds

(1) Authorization and appropriation

There are authorized to be appropriated, and there are appropriated to the Secretary, from funds not otherwise appropriated, $57,000,000 for each of the fiscal years 2008 through 2011 to carry out paragraph (2), except that any amounts that remain unexpended for such purpose for each of such fiscal years may be available for technical assistance and administration costs for the Upward Bound program. The authority to award grants under this subsection shall expire at the end of fiscal year 2011.

(2) Use of funds

The amounts made available by paragraph (1) shall be available to provide assistance to all Upward Bound projects that did not receive assistance in fiscal year 2007 and that have a grant score above 70. Such assistance shall be made available in the form of 4-year grants.

(h) Absolute priority prohibited in Upward Bound Program

Upon enactment of this subsection and except as otherwise expressly provided by amendment to this section, the Secretary shall not continue, implement, or enforce the absolute priority for the Upward Bound Program published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.). This subsection shall not be applied retroactively. In implementing this subsection, the Department shall allow the programs and participants chosen in the grant cycle to which the priority applies to continue their grants and participation without a further recompetition. The entities shall not be required to apply the absolute priority conditions or restrictions to future participants.

§402D [20 U.S.C. 1070a–14] Student support services

(a) Program authority

The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions;

(3) to foster an institutional climate supportive of the success of students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), students who are in foster care or are aging out of the foster care system, or other disconnected students; and

(4) to improve the financial literacy and economic literacy of students, including—

(A) basic personal income, household money management, and financial planning skills; and

(B) basic economic decisionmaking skills.

(b) Required services

A project assisted under this section shall provide—

(1) academic tutoring, directly or through other services provided by the institution, to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in postsecondary course selection;

(3)(A) information on both the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a) [20 U.S.C. 1090(a)];

(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

(5) activities designed to assist students participating in the project in applying for admission to, and obtaining financial assistance for enrollment in, graduate and professional programs; and

(6) activities designed to assist students enrolled in two-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, a four-year program of postsecondary education.

(c) Permissible services

A project assisted under this section may provide services such as—

(1) individualized counseling for personal, career, and academic matters provided by assigned counselors;

(2) information, activities, and instruction designed to acquaint students participating in the project with the range of career options available to the students;

(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

(4) mentoring programs involving faculty or upper class students, or a combination thereof;

(5) securing temporary housing during breaks in the academic year for—

(A) students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]) or were formerly homeless children and youths; and

(B) students who are in foster care or are aging out of the foster care system; and

(6) programs and activities as described in subsection (b) or paragraphs (1) through (4) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally
underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a], students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) Special rule

(1) Use for student aid

A recipient of a grant that undertakes any of the permissible services identified in subsection (c) may, in addition, use such funds to provide grant aid to students. A grant provided under this paragraph shall not exceed the Federal Pell Grant amount, determined under section 401(b)(2)(A) [20 U.S.C. 1070a(b)(2)(A)], for which a student is eligible, or be less than the minimum Federal Pell Grant amount described in section 401(b)(4) [20 U.S.C. 1070a(B)(4)], for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution’s financial aid office.

(2) Eligible students

For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1; or

(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 if the institution demonstrates to the satisfaction of the Secretary that—

(i) these students are at high risk of dropping out; and

(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

(3) Determination of need

A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter exceed that student's cost of attendance, as defined in section 472 [20 U.S.C. 1087].

(4) Matching required

A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of title III or title V.

(5) Reservation

In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

(6) Supplement, not supplant

Funds received by a grant recipient that are used under this subsection shall be used to supplement, and not supplant, non-Federal funds expended for student support services programs.

(e) Requirements for approval of applications

In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;
§402D [20 U.S.C. 1070a–14] Student support services

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution’s effort, and where applicable past history, in—

(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

(B) maintaining the loan burden of each such student at a manageable level.


(a) Program authority
The Secretary shall carry out a program to be known as the “Ronald E. McNair Postbaccalaureate Achievement Program” that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) Required services
A project assisted under this section shall provide—

1. opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;
2. summer internships;
3. seminars and other educational activities designed to prepare students for doctoral study;
4. tutoring;
5. academic counseling; and
6. activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

(c) Permissible services
A project assisted under this section may provide services such as—

1. education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;
2. mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and
3. exposure to cultural events and academic programs not usually available to disadvantaged students.

(d) Requirements
In approving applications for projects assisted under this section for any fiscal year, the Secretary shall require—

1. an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;
2. an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education, including—
   1. Alaska Natives, as defined in section 7306 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7546];
   2. Native Hawaiians, as defined in section 7207 of such Act [20 U.S.C. 7517]; and
   3. Native American Pacific Islanders, as defined in section 320 [20 U.S.C. 1059g];
3. an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 487 [20 U.S.C. 1094]; and
4. an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(e) Award considerations
In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

1. the quality of research and other scholarly activities in which students will be involved;
2. the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution’s plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(f) Maximum stipends

Students participating in research under a project under this section may receive an award that—

(1) shall include a stipend not to exceed $2,800 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(g) Funding

From amounts appropriated pursuant to the authority of section 402A(g) [20 U.S.C. 1070a–11(g)], the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 2009 through 2014.


(a) Program authority; services provided

The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education;

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers; and

(3) to improve the financial literacy and economic literacy of students, including—
   (A) basic personal income, household money management, and financial planning skills; and
   (B) basic economic decisionmaking skills.

(b) Permissible services

An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) education or counseling services designed to improve the financial literacy and economic literacy of students;

(6) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(7) individualized personal, career, and academic counseling;

(8) tutorial services;

(9) career workshops and counseling;

(10) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) Requirements for approval of applications

In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402B [20 U.S.C. 1070a–12]; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402B [20 U.S.C. 1070a–12].

§402G [20 U.S.C. 1070a–17] Staff development activities

(a) Secretary’s authority

For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, participating in, or preparing for employment in, such programs and projects.

(b) Contents of training programs

Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this chapter as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this chapter.

(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

(3) The design and operation of model programs for projects funded under this chapter.

(4) The use of appropriate educational technology in the operation of projects assisted under this chapter.

(5) Strategies for recruiting and serving hard to reach populations, including students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) Consultation

Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

§402H [20 U.S.C. 1070a–18] Reports, evaluations, and grants for project improvement and dissemination

(a) Reports to the authorizing committees

(1) In general

The Secretary shall submit annually, to the authorizing committees, a report that documents the performance of all programs funded under this chapter. Such report shall—

(A) be submitted not later than 12 months after the eligible entities receiving funds under this chapter are required to report their performance to the Secretary;

(B) focus on the programs’ performance on the relevant outcome criteria determined under section 402A(f)(4) [20 U.S.C. 1070a–11(f)(4)];

(C) aggregate individual project performance data on the outcome criteria in order to provide national performance data for each program;

(D) include, when appropriate, descriptive data, multi-year data, and multi-cohort data; and

(E) include comparable data on the performance nationally of low-income students, first-generation students, and students with disabilities.

(2) Information

The Secretary shall provide, with each report submitted under paragraph (1), information on the impact of the secondary review process described in section 402A(c)(8)(C)(iv) [20 U.S.C. 1070a–11(c)(8)(C)(iv)], including the number and type of secondary reviews, the disposition of the secondary reviews, the effect on timing of awards, and any other information the Secretary determines is necessary.

(b) Evaluations

(1) In general

(A) Authorization of grants and contracts

For the purpose of improving the effectiveness of the programs and projects assisted under this chapter, the Secretary shall make grants to, or enter into contracts with, institutions of higher education and other public and private institutions and organizations to rigorously evaluate the effectiveness of the programs and projects assisted under this chapter, including a rigorous evaluation of the programs and projects assisted under section 402C [20 U.S.C. 1070a–13] of this title. The evaluation of the programs and projects assisted under section 402C [20 U.S.C. 1070a–13] shall be implemented not later than June 30, 2010.

(B) Content of upward bound evaluation

The evaluation of the programs and projects assisted under section 402C [20 U.S.C. 1070a–13] that is described in subparagraph (A) shall examine the characteristics of the students who benefit most from the Upward Bound program under section 402C [20 U.S.C. 1070a–13] and the characteristics of the programs and projects that most benefit students.

(C) Implementation

Each evaluation described in this paragraph shall be implemented in accordance with the requirements of this section.

(2) Practices

(A) In general

The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are effective in—

(i) enhancing the access of low-income individuals and first-generation college students to postsecondary education;

(ii) the preparation of such individuals and students for postsecondary education; and
(iii) fostering the success of the individuals and students in postsecondary education.

(B) Primary purpose

Any evaluation conducted under this chapter shall have as the evaluation's primary purpose the identification of particular practices that further the achievement of the outcome criteria determined under section 402A(f)(4) [20 U.S.C. 1070a–11(f)(4)].

(C) Dissemination and use of evaluation findings

The Secretary shall disseminate to eligible entities and make available to the public the practices identified under subparagraph (B). The practices may be used by eligible entities that receive assistance under this chapter after the dissemination.

(3) Special rule related to evaluation participation

The Secretary shall not require an eligible entity, as a condition for receiving, or that receives, assistance under any program or project under this chapter to participate in an evaluation under this section that—

(A) requires the eligible entity to recruit additional students beyond those the program or project would normally recruit; or

(B) results in the denial of services for an eligible student under the program or project.

(4) Consideration

When designing an evaluation under this subsection, the Secretary shall continue to consider—

(A) the burden placed on the program participants or the eligible entity; and

(B) whether the evaluation meets generally accepted standards of institutional review boards.

(c) Grants

The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this chapter prior to the date of enactment of the Higher Education Amendments of 1998, October 7, 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this chapter and are serving low-income students and first generation college students, in order to—

(1) disseminate and replicate best practices of programs or projects assisted under this chapter; and

(2) provide technical assistance regarding programs and projects assisted under this chapter.

(d) Results

In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.

(a) Program authorized

The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to secondary school students, including students with disabilities, to reduce—

(A) the risk of such students dropping out of school; or

(B) the need for remedial education for such students at the postsecondary level; and

(2) information to students and their families about the advantages of obtaining a postsecondary education and, college financing options for the students and their families.

(b) Awards

(1) In general

From funds appropriated under section 404H [20 U.S.C. 1070a–28] for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) to enable the entities to carry out the program authorized under subsection (a).

(2) Award period

The Secretary may award a grant under this chapter to an eligible entity described in paragraphs (1) and (2) of subsection (c) for—

(A) six years; or

(B) in the case of an eligible entity that applies for a grant under this chapter for seven years to enable the eligible entity to provide services to a student through the student’s first year of attendance at an institution of higher education, seven years.

(3) Priority

In making awards to eligible entities described in subsection (c)(1), the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before the date of enactment of the Higher Education Opportunity Act, August 14, 2008, carried out successful educational opportunity programs under this chapter (as this chapter was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

(B) ensure that students served under this chapter on the day before the date of enactment of the Higher Education Opportunity Act, August 14, 2008, continue to receive assistance through the completion of secondary school.

(c) “Eligible entity” defined

For the purposes of this chapter, the term “eligible entity” means—

(1) a State; or

(2) a partnership—

(A) consisting of—

(i) one or more local educational agencies; and

(ii) one or more degree granting institutions of higher education; and

(B) which may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.


(a) Funding rules
In awarding grants from the amount appropriated under section 404H [20 U.S.C. 1070a–28] for a fiscal year, the Secretary shall make available—

(1) to eligible entities described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)], not less than 33 percent of such amount;

(2) to eligible entities described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)], not less than 33 percent of such amount; and

(3) to eligible entities described in paragraph (1) or (2) of section 404A(c) [20 U.S.C. 1070a–21(c)], the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

(A) the geographic distribution of such grant awards; and

(B) the distribution of such grant awards between urban and rural applicants.

(b) Coordination
Each eligible entity shall ensure that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this chapter provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(c) Designation of fiscal agent
An eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(d) Cohort approach
(1) In general
The Secretary shall require that eligible entities described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)]—

(A) provide services under this chapter to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937, [42 U.S.C. 1437a(b)(1)]);

(B) ensure that the services are provided through the 12th grade to students in the participating grade level and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this chapter; and

(C) provide services under this chapter to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade.

(2) Coordination requirement
In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(e) Supplement, not supplant
Grant funds awarded under this chapter shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this chapter.
Applications

(a) Application required for eligibility

(1) In general
In order for an eligible entity to qualify for a grant under this chapter, the eligible entity shall submit to the Secretary an application for carrying out the program under this chapter.

(2) Contents
Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

(A) describe the activities for which assistance under this chapter is sought, including how the eligible entity will carry out the required activities described in section 404D(a) [20 U.S.C. 1070a–24(a)];

(B) describe, in the case of an eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] that chooses to provide scholarships, or an eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)], how the eligible entity will meet the requirements of section 404E [20 U.S.C. 1070a–25];

(C) describe, in the case of an eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D [20 U.S.C. 1070a–24];

(E) provide assurances that activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(F) describe, in the case of an eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)] that chooses to use a cohort approach, or an eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)], how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d) [20 U.S.C. 1070a–22(d)], and how the eligible entity will serve the cohorts through grade 12, including—

(i) how vacancies in the program under this chapter will be filled; and

(ii) how the eligible entity will serve students attending different secondary schools;

(G) describe how the eligible entity will coordinate programs under this chapter with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter;

(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

(b) Matching requirement

(1) In general
The Secretary shall not approve an application submitted under subsection (a) unless such application—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

(2) Special rule

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)]. The Secretary may approve an eligible entity’s request for a reduced match percentage—

(A) at the time of application—

(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

(ii) if the eligible entity is described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] and requests that contributions to the eligible entity’s scholarship fund established under section 404E [20 U.S.C. 1070a–25] be matched on a two to one basis; or

(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described in its application are no longer available and the eligible entity has exhausted all revenues for replacing such matching funds.

(c) Methods for complying with matching requirement

An eligible entity may count toward the matching requirement described in subsection (b)(1)(A)—

(1) the amount of the financial assistance obligated to students from State, local, institutional, or private funds under this chapter, including pre-existing non-Federal financial assistance programs, including—

(A) the amount contributed to a student scholarship fund established under section 404E [20 U.S.C. 1070a–25]; and

(B) the amount of the costs of administering the scholarship program under section 404E [20 U.S.C. 1070a–25];

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this chapter;

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations; and

(4) other resources recognized by the Secretary, including equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

(d) Peer review panels

The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this chapter.


(a) Required activities

Each eligible entity receiving a grant under this chapter shall provide comprehensive mentoring, outreach, and supportive services to students participating in the programs under this chapter. Such activities shall include the following:

(1) Providing information regarding financial aid for postsecondary education to participating students in the cohort described in section 404B(d)(1)(A) [20 U.S.C. 1070a–22(d)(1)(A)] or to priority students described in subsection (d).

(2) Encouraging student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

(3) Improving the number of participating students who—
   (A) obtain a secondary school diploma; and
   (B) complete applications for and enroll in a program of postsecondary education.

(4) In the case of an eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)], providing for the scholarships described in section 404E [20 U.S.C. 1070a–25].

(b) Permissible activities for States and partnerships

An eligible entity that receives a grant under this chapter may use grant funds to carry out one or more of the following activities:

(1) Providing tutors and mentors, who may include adults or former participants of a program under this chapter, for eligible students.

(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

(3) Providing supportive services to eligible students.

(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core academic courses that reflect challenging State academic standards.

(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)], and other activities that support participating students in—
   (A) meeting challenging State academic standards;
   (B) successfully applying for postsecondary education;
   (C) successfully applying for student financial aid; and
   (D) developing graduation and career plans.

(6) Providing special programs or tutoring in science, technology, engineering, or mathematics.

(7) In the case of an eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)], providing support for scholarships described in section 404E [20 U.S.C. 1070a–25].

(8) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

(9) Providing an intensive extended school day, school year, or summer program that offers—
   (A) additional academic classes; or
   (B) assistance with college admission applications.

(10) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—
   (A) the identification of at-risk children;
(B) after-school and summer tutoring;
(C) assistance to at-risk children in obtaining summer jobs;
(D) academic counseling;
(E) financial literacy and economic literacy education or counseling;
(F) volunteer and parent involvement;
(G) encouraging former or current participants of a program under this chapter to serve as peer counselors;
(H) skills assessments;
(I) personal and family counseling, and home visits;
(J) staff development; and
(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

(11) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

(12) Providing services to eligible students in the participating cohort described in section 404B(d)(1)(A) [20 U.S.C. 1070a–22(d)(1)(A)], through the first year of attendance at an institution of higher education.

(13) Fostering and improving parent and family involvement in elementary and secondary education by promoting the advantages of a college education, and emphasizing academic admission requirements and the need to take college preparation courses, through parent engagement and leadership activities.

(14) Disseminating information that promotes the importance of higher education, explains college preparation and admission requirements, and raises awareness of the resources and services provided by the eligible entities to eligible students, their families, and communities.

(15) In the event that matching funds described in the application are no longer available, engaging entities described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] in a collaborative manner to provide matching resources and participate in other activities authorized under this section.

(c) Additional permissible activities for States

In addition to the required activities described in subsection (a) and the permissible activities described in subsection (b), an eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)] receiving funds under this chapter may use grant funds to carry out one or more of the following activities:

(1) Providing technical assistance to—
   (A) secondary schools that are located within the State; or
   (B) partnerships described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] that are located within the State.

(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 404B(d)(1)(A) [20 U.S.C. 1070a–22(d)(1)(A)].

(3) Providing administrative support to help build the capacity of eligible entities described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] to compete for and manage grants awarded under this chapter.

(4) Providing strategies and activities that align efforts in the State to prepare eligible students to attend and succeed in postsecondary education, which may include the development of graduation and career plans.

(5) Disseminating information on the use of scientifically valid research and best practices to improve services for eligible students.

(6)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

(B) Identifying and disseminating information on best practices with respect to—
   (i) increasing parental involvement; and
   (ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.
(7) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

(8) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry-recognized certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

(9) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

(d) Priority students

For eligible entities not using a cohort approach, the eligible entity shall treat as a priority student any student in secondary school who is—

(1) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6333(c)];

(2) eligible for assistance under a State program funded under part A or E of title IV of the Social Security Act [42 U.S.C. 601 et seq., 670 et seq.];

(3) eligible for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11431 et seq.]; or

(4) otherwise considered by the eligible entity to be a disconnected student.

(e) Allowable providers

In the case of eligible entities described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)], the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.


(a) In general

(1) States
In order to receive a grant under this chapter, an eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)] shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

(2) Partnerships
An eligible entity described in section 404A(c)(2) [20 U.S.C. 1070a–21(c)(2)] may award scholarships to eligible students in accordance with the requirements of this section.

(b) Limitation

(1) In general
Subject to paragraph (2), each eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)] that receives a grant under this chapter shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 404D [20 U.S.C. 1070a–24] (except for the activity described in subsection (a)(4) of such section), with the remainder of such funds to be used for a scholarship program under this section in accordance with such subsection.

(2) Exception
Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this chapter for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 404C [20 U.S.C. 1070a–23].

(c) Notification of eligibility
Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students’ entry into the programs assisted under this chapter.

(d) Grant amounts
The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the minimum Federal Pell Grant award under section 401 [20 U.S.C. 1070a] for such award year.

(e) Portability of assistance

(1) In general
Each eligible entity described in section 404A(c)(1) [20 U.S.C. 1070a–21(c)(1)] that receives a grant under this chapter shall hold in reserve, for the students served by such grant as described in section 404B(d)(1)(A) [20 U.S.C. 1070a–22(d)(1)(A)] or 404D(d) [20 U.S.C. 1070a–24(d)], an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students the eligible entity estimates will meet the requirements of paragraph (2).

(2) Requirement for portability
Funds held in reserve under paragraph (1) shall be made available to an eligible student when the eligible student has—

(A) completed a secondary school diploma, its recognized equivalent, or another recognized alternative standard for individuals with disabilities; and

(B) enrolled in an institution of higher education.

(3) Qualified educational expenses
Funds available to an eligible student under this subsection may be used for—

(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

(B) in the case of an eligible student with special needs, expenses for special needs services that are incurred in connection with such enrollment or attendance.

(4) Return of funds

(A) Redistribution

(i) In general

Funds held in reserve under paragraph (1) that are not used by an eligible student within six years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

(ii) Return of excess to the Secretary

If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i) of this subparagraph, an eligible entity has funds held in reserve under paragraph (1) that remain available, the eligible entity shall return such remaining reserved funds to the Secretary for distribution to other grantees under this chapter in accordance with the funding rules described in section 404B(a) [20 U.S.C. 1070a–22(a)].

(B) Nonparticipating entity

Notwithstanding subparagraph (A), in the case of an eligible entity that does not receive assistance under this subpart for six fiscal years, the eligible entity shall return any funds held in reserve under paragraph (1) that are not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this chapter.

(f) Relation to other assistance

Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

(g) Eligible students

A student eligible for assistance under this section is a student who—

(1) is less than 22 years old at time of first scholarship award under this section;

(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the activities required under section 404D(a) [20 U.S.C. 1070a–24(a)].


Title 20—Education  
Chapter 28—Higher Education Resources and Student Assistance  
Subchapter IV—Student Assistance  
Part A—Grants to Students in Attendance at Institutions of Higher Education  
Subpart 2—Federal early outreach and student services programs  
Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs  


(a) In general
An eligible entity that receives a grant under this chapter shall provide certificates, to be known as 21st Century Scholar Certificates, to all students served by the eligible entity who are participating in a program under this chapter.

(b) Information required
A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college and the estimated amount of any scholarship provided under section 404E [20 U.S.C. 1070a–25], if applicable, that a student may be eligible to receive.


(a) Evaluation
Each eligible entity receiving a grant under this chapter shall biennially evaluate the activities assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

(b) Evaluation standards
The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

1. provide for input from eligible entities and service providers; and
2. ensure that data protocols and procedures are consistent and uniform.

(c) Federal evaluation
In order to evaluate and improve the impact of the activities assisted under this chapter, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 404H [20 U.S.C. 1070a–28] for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation. Such evaluation shall include a separate analysis of—

1. the implementation of the scholarship component described in section 404E [20 U.S.C. 1070a–25]; and
2. the use of methods for complying with matching requirements described in paragraphs (1) and (2) of section 404C(c) [20 U.S.C. 1070a–23(c)].

(d) Report
The Secretary shall biennially report to Congress regarding the activities assisted under this chapter and the evaluations conducted pursuant to this section.
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Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs


There are authorized to be appropriated to carry out this chapter $400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

Division 3—Academic Achievement Incentive Scholarships - Repealed, Public Law 110-315

Division 4—Model Program Community Partnership and Counseling Grants – Repealed, Public Law 105-244

Division 5—Public Information – Repealed, Public Law 105-244

Division 6—National Student Savings Demonstration Program – Repealed, Public Law 105-244

Division 7—Pre-eligibility Form – Repealed, Public Law 105-244
§410B [20 U.S.C. 1070a-71]

Division 8—Technical Assistance for Teachers and Counselors – Repealed, Public Law 105-244
§410C [20 U.S.C. 1070a-81]
§413A [20 U.S.C. 1070b] Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a) [20 U.S.C. 1070b–2], for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.


(a) Amount of grant

(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) Period for receipt of grants; continuing eligibility

(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484 [20 U.S.C. 1091], except as provided in section 413C(c) [20 U.S.C. 1070b–2(c)].

(c) Distribution of grant during academic year

Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

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Chapter 28—Higher Education Resources and Student Assistance
Subchapter IV—Student Assistance
Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 3—Federal Supplemental Educational Opportunity Grants

§413C [20 U.S.C. 1070b–2] Agreements with institutions; selection of recipients

(a) Institutional eligibility

Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 487 [20 U.S.C. 1094], an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution’s own resources, including—

(A) institutional grants and scholarships;
(B) tuition or fee waivers;
(C) State scholarships; and
(D) foundation or other charitable organization funds.

(b) Eligibility for selection

Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 484 [20 U.S.C. 1091]; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) Selection of individuals and determination of amount of awards

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487 [20 U.S.C. 1094], and within the amount allocated to the institution for that purpose for that year under section 413D [20 U.S.C. 1070b–3], select individuals who are to be awarded such grants and determine, in accordance with section 413B [20 U.S.C. 1070b–1], the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1087 [20 U.S.C. 1094], assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term “students with exceptional need” means students with the lowest expected family contributions at the institution.

(d) Use of funds for less-than-full-time students

If the institution’s allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.

(e) Use and transfer of funds for administrative expenses

An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 [20 U.S.C. 1096].


(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 413A(b) [20 U.S.C. 1070b(b)] for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution’s allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation, an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on fair share

(1) From the remainder of the amount appropriated pursuant to section 413A(b) [20 U.S.C. 1070b(b)] for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which
has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount
bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need
of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1070b(b) of this
title of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(c) Determination of institution's need

(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent
undergraduate students, determined on the basis of the average expected family contribution (computed in
accordance with part F of this title) of a representative sample within each income category for the second
preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of
attendance for all undergraduate students determined under subparagraph (C), minus the expected family
contribution determined under subparagraph (B) for that income category, except that the amount computed by
such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of
attendance for all undergraduate students determined under subparagraph (C), minus the expected family
contribution determined under subparagraph (B) for that income category, except that the amount computed by
such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term “average cost of attendance” means the average of the attendance costs
for undergraduate students, which shall include (i) tuition and fees determined in accordance with subparagraph (B),
(ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined
in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of
information reported by the institution to the Secretary, which shall include (i) total revenue received by the
institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an
allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between
the income protection allowance for a family of five with one in college and the income protection allowance for a
family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) Reallocation of excess allocations

(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for
any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the
institution’s allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this
paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.


(a) Carryover authority

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

(b) Carryback authority

(1) In general

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) Use of carried-back funds

An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year’s appropriations.


(a) Purpose of subpart
It is the purpose of this subpart to make incentive grants available to States to assist States in—

(1) providing grants to—
   (A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and
   (B) eligible students for campus-based community service work-study; and

(2) carrying out the activities described in section 415E [20 U.S.C. 1070c–3a].

(b) Authorization of appropriations; availability

(1) In general
There are authorized to be appropriated to carry out this subpart $200,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) Reservation
For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E [20 U.S.C. 1070c–3a].

(3) Availability
Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.


(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 415A(b)(1) [20 U.S.C. 1070c(b)(1)] and not reserved under section 415B(b)(2) [20 U.S.C. 1070c(b)(2)] for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallocation from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount reallocated to a State under this part for a year from funds appropriated pursuant to section 415A(b)(1) [20 U.S.C. 1070c(b)(1)] shall be deemed part of its allotment under subsection (a) for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415(b) [20 U.S.C. 1070c–2(b)].

§415C [20 U.S.C. 1070c–2] Applications for leveraging educational assistance partnership programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State’s allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not to exceed the lesser of $12,500 or the student’s cost of attendance per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1) [42 U.S.C. 2753(b)(1)];

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State’s allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State’s allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart;

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through State funds for the program under this subpart; and
§415C [20 U.S.C. 1070c–2] Applications for leveraging educational assistance partnership programs

(11) provides notification to eligible students that such grants are—

(A) Leveraging Educational Assistance Partnership Grants; and

(B) funded by the Federal Government, the State, and, where applicable, other contributing partners.

(c) Reservation and disbursement of allotments and reallocations

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallocation) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallocation) shall be equal to the Federal share of the cost of the students’ incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallocation) available at the time of such approval.

§415D [20 U.S.C. 1070c–3] Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C [20 U.S.C. 1070c–2], or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions, the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United State Code, section 1254.

Title 20—Education
Chapter 28—Higher Education Resources and Student Assistance
Subchapter IV—Student Assistance
Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 4—Leveraging Educational Assistance Partnership Program


(a) Purpose
It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties, including community-based organizations, in order to—

(A) carry out activities under this section; and

(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

(2) provide need-based grants for access and persistence to eligible low-income students;

(3) provide early notification to low-income students of the students’ eligibility for financial aid; and

(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

(b) Allotments to States

(1) In general

(A) Authorization
From sums reserved under section 415A(b)(2) [20 U.S.C. 1070c(b)(2)] for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

(B) Determination of allotment
In making allotments under subparagraph (A), the Secretary shall consider the following:

(i) Continuation of award
Except as provided in clause (ii), if a State continues to meet the specifications established in such State’s application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

(ii) Special continuation and transition rule
If a State that applied for and received an allotment under this section for fiscal year 2010 pursuant to subsection (j) meets the specifications established in the State’s application under subsection (c) for fiscal year 2011, then the Secretary shall make an allotment to such State for fiscal year 2011 that is not less than the allotment made pursuant to subsection (j) to such State for fiscal year 2010 under this section (as this section was in effect on the day before the date of enactment of the Higher Education Opportunity Act (Public Law 110-315), August 14, 2008).

(iii) Priority
The Secretary shall give priority in making allotments to States that meet the requirements described in paragraph (2)(B)(ii).

(2) Federal share

(A) In general
The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year shall not exceed 66.66 percent.

(B) Different percentages
The Federal share under this section shall be determined in accordance with the following:
(i) The Federal share of the cost of carrying out the activities under subsection (d) shall be 57 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(ii) The Federal share of the cost of carrying out the activities under subsection (d) shall be 66.66 percent if a State applies for an allotment under this section in partnership with any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, and—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(C) Non-Federal share

(i) In general

The non-Federal share under this section may be provided in cash or in kind, fairly evaluated.

(ii) In-kind contribution

For the purpose of calculating the non-Federal share under this subparagraph, an in-kind contribution is a non-cash contribution that—

(I) has monetary value, such as the provision of—

(aa) room and board; or

(bb) transportation passes; and

(II) helps a student meet the cost of attendance at an institution of higher education.

(iii) Effect on need analysis

For the purpose of calculating a student's need in accordance with part F, an in-kind contribution described in clause (ii) shall not be considered an asset or income of the student or the student's parent.

(c) Application for allotment

(1) In general

(A) Submission

A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Content

An application submitted under subparagraph (A) shall include the following:

(i) A description of the State's plan for using the allotted funds.

(ii) An assurance that the State will provide matching funds, in cash or in kind, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). The State shall specify the methods by which matching funds will be paid. A State that uses non-Federal funds to create or expand partnerships with entities described in subsection (a)(1), in which such entities match State funds for student scholarships, may apply such matching funds from such entities toward fulfilling the State's matching obligation under this clause.

(iii) An assurance that the State will use funds provided under this section to supplement, and not supplant, Federal and State funds available for carrying out the activities under this title.

(iv) An assurance that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.
(v) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of how the State will compile information on degree completion of students receiving grants under this section.

(vi) A description of the steps the State will take to ensure that students who receive grants under this section persist to degree completion.

(vii) An assurance that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479(c) [20 U.S.C. 1087ss(c)], to identify eligible low-income students and award State grant aid to such students.

(viii) An assurance that the State will provide notification to eligible low-income students that grants under this section are—

(I) Leveraging Educational Assistance Partnership Grants; and

(II) funded by the Federal Government and the State, and, where applicable, other contributing partners.

(2) State agency

The State agency that submits an application for a State under section 415C(a) [20 U.S.C. 1070c–2(a)] shall be the same State agency that submits an application under paragraph (1) for such State.

(3) Partnership

In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

(A) not less than one public and one private degree-granting institution of higher education that are located in the State, if applicable;

(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

(C) not less than one—

(i) philanthropic organization located in, or that provides funding in, the State; or

(ii) private corporation located in, or that does business in, the State.

(4) Roles of partners

(A) State agency

A State agency that is in a partnership receiving an allotment under this section—

(i) shall—

(I) serve as the primary administrative unit for the partnership;

(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

(III) encourage each institution of higher education in the State to participate in the partnership;

(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

(ii) may provide early information and intervention, mentoring, or outreach programs.

(B) Degree-granting institutions of higher education

A degree-granting institution of higher education that is in a partnership receiving an allotment under this section—

(i) shall—

(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

(II) provide support services to students who receive grants for access and persistence under this section and are enrolled at such institution; and

(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.
(C) Programs
An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

(D) Philanthropic organization or private corporation
A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for grants for access and persistence for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

(d) Authorized activities

(1) In general
(A) Establishment of partnership
Each State receiving an allotment under this section shall use the funds to establish a partnership to award grants for access and persistence to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

(B) Amount of grants
The amount of a grant for access and persistence awarded by a State to a student under this section shall be not less than—

(i) the average undergraduate tuition and mandatory fees at the public institutions of higher education in the State where the student resides that are of the same type of institution as the institution of higher education the student attends; minus

(ii) other Federal and State aid the student receives.

(C) Special rules
(i) Partnership institutions
A State receiving an allotment under this section may restrict the use of grants for access and persistence under this section by awarding the grants only to students attending institutions of higher education that are participating in the partnership.

(ii) Out-of-State institutions
If a State provides grants through another program under this subpart to students attending institutions of higher education located in another State, grants awarded under this section may be used at institutions of higher education located in another State.

(2) Early notification
(A) In general
Each State receiving an allotment under this section shall annually notify low-income students in grades seven through 12 in the State, and their families, of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

(B) Content of notice
The notice under subparagraph (A)—

(i) shall include—

(I) information about early information and intervention, mentoring, or outreach programs available to the student;

(II) information that a student’s eligibility for a grant for access and persistence is enhanced through participation in an early information and intervention, mentoring, or outreach program;

(III) an explanation that student and family eligibility for, and participation in, other Federal means-tested programs may indicate eligibility for a grant for access and persistence and other student aid programs;

(IV) a nonbinding estimate of the total amount of financial aid that a low-income student with a similar income level may expect to receive, including an estimate of the amount of a grant for access and persistence and an
estimate of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

(V) an explanation that in order to be eligible for a grant for access and persistence, at a minimum, a student shall—

(aa) meet the requirement under paragraph (3);

(bb) graduate from secondary school; and

(cc) enroll at an institution of higher education—

(AA) that is a partner in the partnership; or

(BB) with respect to which attendance is permitted under subsection (d)(1)(C)(ii);

(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of a grant for access and persistence under this section; and

(VII) instructions on how to apply for a grant for access and persistence and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) [20 U.S.C. 1090(a)] to be eligible for such grant and assistance from other Federal and State financial aid programs; and

(ii) may include a disclaimer that grant awards for access and persistence are contingent on—

(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

(II) annual Federal and State spending for higher education; and

(III) other aid received by the student at the time of the student's enrollment at such institution of higher education.

(3) Eligibility

In determining which students are eligible to receive grants for access and persistence, the State shall ensure that each such student complies with the following subparagraph (A) or (B):

(A) Meets not less than two of the following criteria, with priority given to students meeting all of the following criteria:

(i) Has an expected family contribution equal to zero, as determined under part F, or a comparable alternative based upon the State's approved criteria in section 415C(b)(4) [20 U.S.C. 1070c–2(b)(4)].

(ii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b) [20 U.S.C. 1070c–2(b)].

(iii) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

(B) Is receiving, or has received, a grant for access and persistence under this section, in accordance with paragraph (5).

(4) Grant award

Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related State form, and is determined eligible by the State under paragraph (3), the State shall—

(A) issue the student a preliminary award certificate for a grant for access and persistence with estimated award amounts; and

(B) inform the student that payment of the grant for access and persistence award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

(5) Duration of award

An eligible student who receives a grant for access and persistence under this section shall receive such grant award for each year of such student’s undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c) [20 U.S.C. 1091(c)], and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to degree completion.

(e) Administrative cost allowance
A State that receives an allotment under this section may reserve not more than two percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

(f) Statutory and regulatory relief for institutions of higher education
The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

(g) Applicability rule
The provisions of this subpart that are not inconsistent with this section shall apply to the program authorized by this section.

(h) Maintenance of effort requirement
Each State receiving an allotment under this section for a fiscal year shall provide the Secretary with an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

(i) Special rule
Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed the State's total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

(j) Continuation and transition
For the two-year period that begins on the date of enactment of the Higher Education Opportunity Act, August 14, 2008, the Secretary shall continue to award grants under section 415E [20 U.S.C. 1070c–3a] of the Higher Education Act of 1965 as such section existed on the day before the date of enactment of the Higher Education Opportunity Act, August 14, 2008, to States that choose to apply for grants under such predecessor section.

(k) Reports
Not later than three years after the date of enactment of the Higher Education Opportunity Act, August 14, 2008, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.


For the purpose of this subpart, the term “community service” means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

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Part A—Grants to Students in Attendance at Institutions of Higher Education
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(a) Program authority
The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services provided by high school equivalency program
The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—
   (A) who are 16 years of age and over; or
   (B) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;
   (C) who themselves, or whose immediate family, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or
   (D) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 167 [29 U.S.C. 3222] of the Workforce Investment Act of 1987; and
   (E) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:
   (A) personal, vocational, and academic counseling;
   (B) placement services designed to place students in a university, college, or junior college program (including preparation for college entrance examinations), or in military service or career positions; and
   (C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth;

(8) other essential supportive services (such as transportation and child care), as needed to ensure the success of eligible students; and

(9) other activities to improve persistence and retention in postsecondary education.

(c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—
   (A) outreach and recruitment services to reach persons who themselves or whose immediate family have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 167 [29 U.S.C. 3222] of the Workforce Investment Act of 1987, and who meet the minimum qualifications for attendance at a college or university;
   (B) supportive and instructional services to improve placement, persistence, and retention in postsecondary education, which include:
      (i) personal, academic, career, and economic education or personal finance counseling as an ongoing part of the program;
(ii) tutoring and academic skill building instruction and assistance;
(iii) assistance with special admissions;
(iv) health services; and
(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:
(i) stipends;
(ii) scholarships;
(iii) student travel;
(iv) career oriented work study;
(v) books and supplies;
(vi) tuition and fees;
(vii) room and board; and
(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth;

(F) internships; and

(G) other essential supportive services (such as transportation and child care) as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college;

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and

(C) for students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.

(d) Management plan required

Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;
(2) training and technical assistance;
(3) staff travel;
(4) student travel;
(5) interagency coordination; and
(6) an evaluation plan.

(e) Five-year grant period; consideration of prior experience

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 402A(c)(2) [20 U.S.C. 1070a–11(c)(2)].

(f) Minimum allocations
The Secretary shall not allocate an amount less than—

(1) $180,000 for each project under the high school equivalency program, and

(2) $180,000 for each project under the college assistance migrant program.

(g) Reservation and allocation of funds
From the amounts made available under subsection (i), the Secretary—

(1) may reserve not more than a total of ½ of one percent for outreach activities, technical assistance, and professional development programs relating to the programs under subsection (a);

(2) for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $40,000,000, shall, in awarding grants from the remainder of such amounts—

(A) make available not less than 45 percent of such remainder for the high school equivalency programs and not less than 45 percent of such remainder for the college assistance migrant programs;

(B) award the rest of such remainder for high school equivalency programs or college assistance migrant programs based on the number, quality, and promise of the applications; and

(C) consider the need to provide an equitable geographic distribution of such grants; and

(3) for any fiscal year for which the amount appropriated to carry out this section is less than $40,000,000, shall, in awarding grants from the remainder of such amounts make available the same percentage of funds to the high school equivalency program and to the college assistance migrant program as was made available for each such program for the fiscal year preceding the fiscal year for which the grant was made.

(h) Data collection
The Secretary shall—

(1) annually collect data on persons receiving services authorized under this subpart regarding such persons’ rates of secondary school graduation, entrance into postsecondary education, and completion of postsecondary education, as applicable;

(2) not less often than once every two years, prepare and submit to the authorizing committees a report based on the most recently available data under paragraph (1); and

(3) make such report available to the public.

(i) Authorization of appropriations
For the purpose of making grants and contracts under this section, there are authorized to be appropriated $75,000,000 for fiscal year 2009 and such sums as may be necessary for the each of the five succeeding fiscal years.

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Subchapter IV—Student Assistance
Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 6—Robert C. Byrd Honors Scholarship Program


It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

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Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 6—Robert C. Byrd Honors Scholarship Program
§419C [20 U.S.C. 1070d–33] Scholarships authorized

(a) Program authority
The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of award
Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) [20 U.S.C. 1070d–34(b)] that are attributable to such excess; and

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) Use at any institution permitted
A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars
Individuals awarded scholarships under this subpart shall be known as “Byrd Scholars”.


(a) Allocation formula

From the sums appropriated pursuant to the authority of section 419K [20 U.S.C 1070d–41] for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E [20 U.S.C 1070d–35] an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 501 of Public Law 95-134 [48 U.S.C. 1469a], funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS eligibility

(1) Fiscal years 2000 through 2004

Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) Termination of eligibility

A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.


The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

1. the State educational agency will administer the scholarship program authorized by this subpart in the State;
2. the State educational agency will comply with the eligibility and selection provisions of this subpart;
3. the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and
4. the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.


(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school (or a home school, whether treated as a home school or a private school under State law) or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.


(a) Establishment of criteria
The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures
The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement
In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection
The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

§419H [20 U.S.C. 1070d–38] Stipends and scholarship conditions

(a) Amount of award

Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) Use of award

The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

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Except as provided in section 471 [20 U.S.C 1087kk], nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

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Chapter 28—Higher Education Resources and Student Assistance
Subchapter IV—Student Assistance
Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 6—Robert C. Byrd Honors Scholarship Program


There are authorized to be appropriated for this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.


(a) Purpose

The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

(b) Program authorized

(1) Authority

The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

(2) Amount of grants

(A) In general

The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

(B) Minimum

(i) In general

Except as provided in clause (ii), a grant under this section shall be awarded in an amount that is not less than $10,000.

(ii) Increase trigger

For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.

(3) Duration; renewal; and payments

(A) Duration

The Secretary shall award a grant under this section for a period of 4 years.

(B) Payments

Subject to subsection (e)(2), the Secretary shall make annual grant payments under this section.

(4) Eligible institutions

An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000, except that for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $20,000,000, this sentence shall be applied by substituting “$250,000” for “$350,000”.

(5) Use of funds

Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

(6) Construction

Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

(7) Definition of low-income student

For the purpose of this section, the term “low-income student” means a student—

(A) who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(B) who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of—

(i) section 401(c)(1) [20 U.S.C 1070a(c)(1)] because the student is enrolled in a graduate or first professional course of study; or

(ii) section 484(a)(5) [20 U.S.C 1091(a)(5)] because the student is in the United States for a temporary purpose.

(8) Publicity
The Secretary shall publicize the availability of grants under this section in appropriate periodicals, in addition to publication in the Federal Register, and shall inform appropriate educational organizations of such availability.

(c) Applications
An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

(1) demonstrate that the institution is an eligible institution described in subsection (b)(4);

(2) specify the amount of funds requested;

(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

(A) information regarding student demographics;

(B) an assessment of child care capacity on or near campus;

(C) information regarding the existence of waiting lists for existing child care;

(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) other relevant data;

(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) describe the extent to which the child care program will coordinate with the institution’s early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

(8) in the case of an institution seeking assistance for a new child care program—

(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

(d) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

(e) Reporting requirements; continuing eligibility

(1) Reporting requirements

(A) Reports

Each institution of higher education receiving a grant under this section shall report to the Secretary annually.

(B) Contents

The report shall include—

(i) data on the population served under this section;

(ii) information on campus and community resources and funding used to help low-income students access child care services;

(iii) information on progress made toward accreditation of any child care facility; and

(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

(2) Continuing eligibility

The Secretary shall make continuation awards under this section to an institution of higher education only if the Secretary determines, on the basis of the reports submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

(f) Construction

No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

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Subchapter IV—Student Assistance
Part A—Grants to Students in Attendance at Institutions of Higher Education
Subpart 8—Learning Anytime Anywhere Partnerships - Repealed

§420L [20 U.S.C. 1070g] Definitions

For the purposes of this subpart:

(1) Eligible institution

The term “eligible institution” means an institution of higher education, as defined in section 102 [20 U.S.C 1002], that the Secretary determines—

(A) provides high quality teacher preparation and professional development services, including extensive clinical experience as a part of pre-service preparation;

(B) is financially responsible;

(C) provides pedagogical course work, or assistance in the provision of such coursework, including the monitoring of student performance, and formal instruction related to the theory and practices of teaching; and

(D) provides supervision and support services to teachers, or assistance in the provision of such services, including mentoring focused on developing effective teaching skills and strategies.

(2) Post-baccalaureate

The term “post-baccalaureate” means a program of instruction for individuals who have completed a baccalaureate degree, that does not lead to a graduate degree, and that consists of courses required by a State in order for a teacher candidate to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that such term shall not include any program of instruction offered by an eligible institution that offers a baccalaureate degree in education.

(3) Teacher candidate

The term “teacher candidate” means a student or teacher described in subparagraph (A) or (B) of section 420N(a)(2) [20 U.S.C 1070g–2(a)(2)].

§420M [20 U.S.C. 1070g–1] Program established

(a) Program authority

(1) Payments required

The Secretary shall pay to each eligible institution such sums as may be necessary to pay to each teacher candidate who files an application and agreement in accordance with section 420N [20 U.S.C 1070g–2], and who qualifies under paragraph (2) of section 420N(a) [20 U.S.C 1070g–2(a)], a TEACH Grant in the amount of $4,000 for each year during which that teacher candidate is in attendance at the institution.

(2) References

Grants made under paragraph (1) shall be known as “Teacher Education Assistance for College and Higher Education Grants” or “TEACH Grants”.

(b) Payment methodology

(1) Prepayment

Not less than 85 percent of any funds provided to an eligible institution under subsection (a) shall be advanced to the eligible institution prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay teacher candidates until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Direct payment

Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to teacher candidates, in advance of the beginning of the academic term, an amount for which teacher candidates are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Distribution of grants to teacher candidates

Payments under this subpart shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this subpart. Any disbursement allowed to be made by crediting the teacher candidate's account shall be limited to tuition and fees and, in the case of institutionally-owned housing, room and board. The teacher candidate may elect to have the institution provide other such goods and services by crediting the teacher candidate's account.

(c) Reductions in amount

(1) Part-time students

In any case where a teacher candidate attends an eligible institution on less than a full-time basis (including a teacher candidate who attends an eligible institution on less than a half-time basis) during any year, the amount of a grant under this subpart for which that teacher candidate is eligible shall be reduced in proportion to the degree to which that teacher candidate is not attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subpart, computed in accordance with section 482 [20 U.S.C 1089] of this Act.

(2) No exceeding cost

The amount of a grant awarded under this subpart, in combination with Federal assistance and other assistance the student may receive, shall not exceed the cost of attendance (as defined in section 472 [20 U.S.C 1087ll]) at the eligible institution at which that teacher candidate is in attendance.

(d) Period of eligibility for grants

(1) Undergraduate and post-baccalaureate students

The period during which an undergraduate or post-baccalaureate student may receive grants under this subpart shall be the period required for the completion of the first undergraduate baccalaureate or post-baccalaureate course of
study being pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that—

(A) any period during which the teacher candidate is enrolled in a noncredit or remedial course of study as described in paragraph (3) shall not be counted for the purpose of this paragraph; and

(B) the total amount that a teacher candidate may receive under this subpart for undergraduate or post-baccalaureate study shall not exceed $16,000.

(2) **Graduate students**

The period during which a graduate student may receive grants under this subpart shall be the period required for the completion of a master's degree course of study pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that the total amount that a teacher candidate may receive under this subpart for graduate study shall not exceed $8,000.

(3) **Remedial course; study abroad**

Nothing in this section shall be construed to exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language acquisition) which are determined by the eligible institution to be necessary to help the teacher candidate be prepared for the pursuit of a first undergraduate baccalaureate or post-baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the teacher candidate to utilize already existing knowledge, training, or skills. Nothing in this section shall be construed to exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the teacher candidate is enrolled.

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Subpart 9—TEACH Grants

§420N [20 U.S.C. 1070g–2] Applications; eligibility

(a) Applications; demonstration of eligibility

(1) Filing required

The Secretary shall periodically set dates by which teacher candidates shall file applications for grants under this subpart. Each teacher candidate desiring a grant under this subpart for any year shall file an application containing such information and assurances as the Secretary may determine necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(2) Demonstration of TEACH Grant eligibility

Each application submitted under paragraph (1) shall contain such information as is necessary to demonstrate that—

(A) if the applicant is an enrolled student—

(i) the student is an eligible student for purposes of section 484 [20 U.S.C 1091];

(ii) the student—

(I) has a grade point average that is determined, under standards prescribed by the Secretary, to be comparable to a 3.25 average on a zero to 4.0 scale, except that, if the student is in the first year of a program of undergraduate education, such grade point average shall be determined on the basis of the student's cumulative secondary school grade point average; or

(II) displayed high academic aptitude by receiving a score above the 75th percentile on at least one of the batteries in an undergraduate, post-baccalaureate, or graduate school admissions test; and

(iii) the student is completing coursework and other requirements necessary to begin a career in teaching, or plans to complete such coursework and requirements prior to graduating; or

(B) if the applicant is a current or prospective teacher applying for a grant to obtain a graduate degree—

(i) the applicant is a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need subject; or

(ii) the applicant is or was a teacher who is using high-quality alternative certification routes, such as Teach for America, to get certified.

(b) Agreements to serve

Each application under subsection (a) shall contain or be accompanied by an agreement by the applicant that—

(1) the applicant will—

(A) serve as a full-time teacher for a total of not less than 4 academic years within 8 years after completing the course of study for which the applicant received a TEACH Grant under this subpart;

(B) teach in a school described in section 465(a)(2)(A) [20 U.S.C 1087ee(a)(2)(A)];

(C) teach in any of the following fields—

(i) mathematics;

(ii) science;

(iii) a foreign language;

(iv) bilingual education;

(v) special education;

(vi) as a reading specialist; or

(vii) another field documented as high-need by the Federal Government, State government, or local educational agency, and approved by the Secretary;
Applications; eligibility

(D) submit evidence of such employment in the form of a certification by the chief administrative officer of the school upon completion of each year of such service; and

(E) comply with the requirements for being a highly qualified teacher as defined in section 9101 [20 U.S.C. 7801 of the Elementary and Secondary Education Act of 1965;

(2) in the event that the applicant is determined to have failed or refused to carry out such service obligation, the sum of the amounts of any TEACH Grants received by such applicant will be treated as a loan and collected from the applicant in accordance with subsection (c) and the regulations thereunder; and

(3) contains, or is accompanied by, a plain-language disclosure form developed by the Secretary that clearly describes the nature of the TEACH Grant award, the service obligation, and the loan repayment requirements that are the consequence of the failure to complete the service obligation.

(c) Repayment for failure to complete service

In the event that any recipient of a grant under this subpart fails or refuses to comply with the service obligation in the agreement under subsection (b), the sum of the amounts of any TEACH Grants received by such recipient shall, upon a determination of such a failure or refusal in such service obligation, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

(d) Additional administrative provisions

(1) Change of high-need designation

If a recipient of an initial grant under this subpart has acquired an academic degree, or expertise, in a field that was, at the time of the recipient’s application for that grant, designated as high need in accordance with subsection (b)(1)(C)(vii), but is no longer so designated, the grant recipient may fulfill the service obligation described in subsection (b)(1) by teaching in that field.

(2) Extenuating circumstances

The Secretary shall establish, by regulation, categories of extenuating circumstances under which a recipient of a grant under this subpart who is unable to fulfill all or part of the recipient’s service obligation may be excused from fulfilling that portion of the service obligation.
§420O [20 U.S.C. 1070g–3] Program period and funding

Beginning on July 1, 2008, there shall be available to the Secretary to carry out this subpart, from funds not otherwise appropriated, such sums as may be necessary to provide TEACH Grants in accordance with this subpart to each eligible applicant.


Not later than two years after the date of enactment of the Higher Education Opportunity Act, August 14, 2008, and every two years thereafter, the Secretary shall prepare and submit to the authorizing committees a report on TEACH grants with respect to the schools and students served by recipients of such grants. Such report shall take into consideration information related to—

(1) the number of TEACH grant recipients;
(2) the degrees obtained by such recipients;
(3) the location, including the school, local educational agency, and State, where the recipients completed the service agreed to under section 420N(b) [20 U.S.C. 1070g–2(b)] and the subject taught;
(4) the duration of such service; and
(5) any other data necessary to conduct such evaluation.

§420R [20 U.S.C. 1070h] Scholarships for veteran’s dependents

(a) Definition of eligible veteran’s dependent

The term “eligible veteran’s dependent” means a dependent or an independent student—

(1) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(2) who, at the time of the parent or guardian’s death, was—

(A) less than 24 years of age; or

(B) enrolled at an institution of higher education on a part-time or full-time basis.

(b) Grants

(1) In general

The Secretary shall award a grant to each eligible veteran’s dependent to assist in paying the eligible veteran’s dependent’s cost of attendance at an institution of higher education.

(2) Designation

Grants made under this section shall be known as “Iraq and Afghanistan Service Grants”.

(c) Prevention of double benefits

No eligible veteran’s dependent may receive a grant under both this section and section 401 [20 U.S.C. 1070a].

(d) Terms and conditions

The Secretary shall award grants under this section in the same manner, and with the same terms and conditions, including the length of the period of eligibility, as the Secretary awards Federal Pell Grants under section 401 [20 U.S.C. 1070a], except that—

(1) the award rules and determination of need applicable to the calculation of Federal Pell Grants, shall not apply to grants made under this section;

(2) the provisions of subsection (a)(3), subsection (b)(1), the matter following subsection (b)(2)(A)(v), subsection (b)(3), and subsection (f), of section 401 [20 U.S.C. 1070a] shall not apply; and

(3) a grant made under this section to an eligible veteran’s dependent for any award year shall equal the maximum Federal Pell Grant available for that award year, except that such a grant under this section—

(A) shall not exceed the cost of attendance of the eligible veteran’s dependent for that award year; and

(B) shall be adjusted to reflect the attendance by the eligible veteran’s dependent on a less than full-time basis in the same manner as such adjustments are made under section 401 [20 U.S.C. 1070a].

(e) Estimated financial assistance

For purposes of determinations of need under part F, a grant awarded under this section shall not be treated as estimated financial assistance as described in sections 471(3) [20 U.S.C. 1087kk(3)] and 480(j) [20 U.S.C. 1087vv(j)].

(f) Authorization and appropriations of funds

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Secretary to carry out this section, such sums as may be necessary for fiscal year 2010 and each succeeding fiscal year.