



ILCHEP Quarterly Meeting Update on Prison Education Programs and Pell Grants for Confined/Incarcerated Individuals

June 28, 2022



Summary

- The Consolidated Appropriations Act, signed into law on December 27, 2020, included the FASFA Simplification Act
- FAFSA Simplification Act included:
 - Reinstated Pell Grant eligibility for individuals in Federal and State penal institutions – previously banned in 1994
 - Creates/defines eligible Prison Education Program (PEP)
- Prison Education Programs was included as a topic in the Negotiated Rulemaking Affordability and Student Loans Committee sessions that were held in October-December 2021
 - Pell for Prison Education Subcommittee
 - Subcommittee presented their report to the full committee; full committee reached consensus on this topic

Confined or Incarcerated Individual

- Defines confined/incarcerated individual in HEA 484(t)(1)(A) as:

an individual serving a criminal sentence in a Federal, State, or local penal institution, prison, jail, reformatory, work farm, or other similar correctional institution, who is not in a half-way house, home detention, or is sentenced to serve only weekends.

Pell Grant Eligibility

- Reinstated Pell Grant eligibility for confined/incarcerated individual:

- Removed language in HEA 401(b)(6) that previously stated:

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).

- Adds in new section HEA 484(t)(3):

...in order for a confined or incarcerated individual who otherwise meets the eligibility requirements of this title to be eligible to receive a Federal Pell Grant under section 401, the individual shall be enrolled or accepted for enrollment in a prison education program.

Pell Grant Eligibility

- Pell Grants will cover cost of attendance for these students (defined in HEA 472(a)(7)):
 - Tuition and fees, books, course materials, supplies, equipment, and the cost of obtaining a license, certification, or a first professional credential.
- FAFSA Simplification Act authorized Pell Grant eligibility for confined/incarcerated individuals for early implementation.
 - The Secretary must indicate the date, conditions, and for which award years, and publish that information in a Federal Register Notice at least 60 days prior to implementation.

Prison Education Program

- Defines Prison Education Program in HEA 484(t)(2) as an education or training program that:
 - Is an eligible program at a public or non-profit IHE;
 - Correctional authority (State DOC/overseeing entity or the Bureau of Prisons) must:
 - Approve the program to operate in a correctional facility; and
 - Determine that the program is operating in the best interest of students based on defined factors that include:
 - Rates of continuing education post-release;
 - Job placement rates;
 - Earnings;
 - Rates of recidivism; and
 - Transferability of credits.

Prison Education Program

- Transfer credits to at least one eligible public or non-profit IHE;
- IHE has not been subject to:
 - Limitation, suspension, or termination actions by the Department in the past 5 years;
 - Adverse action from accrediting agency; or
 - State action to revoke IHE's authority to operate
- Must meet educational requirements for professional licensure or certification:
 - In the State where the correctional facility is located; or
 - For Federal facility, the State in which most incarcerated individuals in that facility will reside upon release.
 - May not offer program if the job or occupation prohibits licensure or employment of formerly incarcerated individuals.

Prison Education Program

- PEP provisions were not authorized for early implementation, so it has the legislation's general effective date of July 1, 2023.
- Since Pell eligibility is tied to the individuals being enrolled in an “approved” PEP, we may not see the Department implement the Pell Grant eligibility provisions prior to that date.

Second Chance Pell Pilot Program

- A pilot program introduced in 2015, “to test whether participation in high quality education programs increases after expanding access to financial aid for incarcerated individuals.”
 - The pilot invited 67 schools to participate in June 2016, including two IL schools: North Park University and Roosevelt University
 - The pilot was expanded in April 2020, and invited an additional 67 schools to participate, including one IL school: Kankakee Community College
 - The pilot was expanded again in April 2022, and invited an additional 73 schools to participate, including two IL schools: Augustana University and Lewis University.

Negotiated Rulemaking

- Part of Affordability and Student Loans Committee sessions held October-December 2021.
 - The Pell Grants for Prison Education Programs Subcommittee met in October and November 2021.
- The full Committee reached consensus – Notice of Proposed Rulemaking (NPRM) language will mirror the agreed-upon consensus language, with the exception of technical corrections and formatting.
 - NPRM is scheduled for release in July 2023, for a 60-day comment period.

Negotiated Rulemaking

- Final rule must be published by November 1, 2022, and will have an effective date of July 1, 2023.
 - The Department will address comments and questions received on the NPRM in the preamble to the Final Rule.
 - Changes can be made to the final rule despite consensus.
 - The Department can authorize certain (or all) provisions in the Final Rule for early implementation, if they so choose.
- The Final Rule is what the Department will use to govern the program.

Consensus Language

Regulatory sections in 34 CFR Parts 600, 668, and 692 affected by the changes to the Pell Grant eligibility and Prison Education Program include:

600.2	668.8	690.62
600.7	668.32	
600.10	668.43	
600.21	668 – Subpart P (sections .234-.242)	

2023-24 FAFSA

- A Federal Register Notice was issued on February 24, 2022, containing the draft 2023-24 FAFSA.
- The documents released included a draft FAFSA that was marked “Incarcerated Applicant Form” at the top.
- Public comments were due on April 25, 2022.

Q and As from ED

- The Department conducted a webinar on Pell Grants for Incarcerated Students on May 26, 2022. Some of the Q and As from that session include:

Q: What is the path for schools currently participating in the Second Chance Pell program – will they be grandfathered into this new program?

A: ED is currently evaluating the process that these schools will follow in order to participate under the program guidelines. They expect to have some guidance out to these schools this summer.

Q: What if someone is serving a life sentence – will they be eligible to participate in the PEP?

A: There are no limitations in the new statutory language based on the length of sentence.

Q: Do all schools have to offer PEPs in all prisons?

A: Offering a PEP is not a requirement. ED wants to schools to understand the investment it will take to have a PEP (working with the correctional facility, assisting students, etc.), so this needs to be a proactive decision on the school's part.

Q and As from ED

Q: To be an eligible PEP, does the student have to be able to 100% complete through that program?

A: If the program does not allow the student the ability to complete while incarcerated, the program is not an eligible program. However, schools/correctional facilities can outline in their agreement if some of the program can be conducted offsite.

Q: Why would incarcerated students not be allowed to received refunds?

A: The COA for these students is defined as tuition and fees, and books and supplies. Programs will likely include the costs of books and supplies as part of T&F since these students would have no other means to obtain them. So, there would be no other educational costs to use title IV funds for, so there would be no credit balances after T&F is paid. This will be outlined in regulations.

Q: If a student is released before they complete their program, would they continue to be eligible for Pell and other title IV aid?

A: Yes, as long as they are otherwise eligible.

Q and As from ED

Q: How will schools be able to follow a prisoner once they are released (for tracking outcomes and reporting purposes)?

A: This is an area that ED is (seriously) looking into. Tracking outcomes is a statutory requirement for ED as well, and will have to be included in its annual report. They are working through the details.

Q: Can an incarcerated student receive a Pell Grant outside of a PEP?

A: Incarcerated students in local and county jails are currently eligible for Pell Grants, other incarcerated students (state and federal facilities) will need to be enrolled in an eligible PEP to receive Pell.

Q: Can extra student fees be included in T&F costs, such as those to help cover staffing expenses?

A: ED does not regulate the fees that a school can charge to the student. As long as it meets the fee requirements established by the state/school, it can be included in COA.

Q and As from ED

Q: Does the PEP have to directly lead to gainful employment, or can the program be e.g., an AA that transfers to a 4-year degree?

A: There is no restriction on the type of program (SCP did have that restriction, but the new program will not).

Q: As part of Fresh Start, will students be able to start school without paying off their existing student loans?

A: Students, including incarcerated students, will be eligible for title IV aid without paying back their entire existing student loan(s).

Q: How do schools go about partnering with correctional facilities? Do they apply with FSA first?

A: This is information that will be outlined in the upcoming NPRM. The school will go through the process with the correctional facility first and establish an agreement for the PEP, and then the school will apply (via the E-App) with FSA for approval as an eligible program.