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Thursday  
February 4, 1999

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**Part II**

**Department of  
Education**

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**Federal Student Financial Assistance  
Programs—Distance Education  
Demonstration Program; Notice**

**DEPARTMENT OF EDUCATION****Federal Student Financial Assistance Programs—Distance Education Demonstration Program**

**AGENCY:** Department of Education.

**ACTION:** Notice inviting applications for participation in the Distance Education Demonstration Program.

**SUMMARY:** The Secretary of Education invites institutions of higher education (institutions), systems of institutions, consortia of institutions, and Western Governors University to submit applications to participate in the Distance Education Demonstration Program authorized under section 486 of title IV of the Higher Education Act of 1965, as amended (HEA). Under the Distance Education Demonstration Program, selected institutions providing distance education programs may receive waivers of specific statutory and regulatory provisions governing the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended, (Title IV of the HEA programs).

**INSTRUCTIONS FOR SUBMITTING AN APPLICATION:**

Elements to be included in an application are described in this notice. There is no application form *per se* for the program. Applications should be submitted electronically by electronic mail or in hard copy to the addresses below. All applications should clearly designate a contact person, and the telephone number and the e-mail address of the contact person. Applications submitted by electronic mail should be submitted in Microsoft Word version 6.1 or lower or WordPerfect version 6.0 or lower. Applicants need only submit one original application. No copies are necessary.

**DATES:** Applications must be postmarked or submitted electronically on or before April 1, 1999.

**ADDRESSES:** DistanceDemo@ed.gov is the address for electronic submission. For submission of an application in hard copy: mail hard copy to Marianne R. Phelps, U.S. Department of Education, 600 Maryland Avenue, S.W., (Room 4082, ROB-3), Washington, D.C. 20202 or hand deliver to Marianne Phelps, U.S. Department of Education, Room 4082, ROB-3, 7th and D Streets, S.W., Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:**

Marianne R. Phelps at (202) 708-5547 or at DistanceDemo@ed.gov if e-mailed. Information concerning the program can also be found on the Web site of the Department (<http://www.ed.gov>). Individuals who use a telecommunications device for the

deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:****Background and Purpose of the Distance Education Demonstration Program**

Over the past few years, there has been rapid growth in the number of institutions providing courses and degree programs in various modes of "distance education." For purposes of the Distance Education Demonstration Program and this notice, "distance education" is defined as an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

This growth in distance education has occurred in response to increasing demand from students who are restricted in their ability to enroll in more traditional programs, including working adults, parents, people who live in rural communities, and students with disabilities. Another reason for this growth is the potential for cost control. Distance education is attractive to institutions that seek to avoid large investments in new facilities to meet student demand and to students who can complete their educational programs more economically using distance education for all or part of their studies. Additionally, through consortia and other agreements among institutions that provide distance education, many students are able to take advantage of a richer selection of course offerings tailored to their individual needs than are available at the institutions where they are enrolled.

Distance education has been available to postsecondary education students for many years. More recently, advancements in technology have provided additional instructional opportunities through the incorporation of print, telephone, fax, television, radio, video and audio conference, the Internet, electronic mail and computer-based integrated telecommunication systems. The richness of the available technology has made the delivery of

high quality distance education possible and desirable for many more postsecondary education programs and students.

Currently, some statutory provisions defining institutional eligibility for the Title IV, HEA programs may limit the circumstances in which Title IV, HEA program funds can be provided to students enrolled in distance education. For example, institutions that offer more than 50 percent of their courses via distance education or enroll more than 50 percent of their students in distance education programs [hereafter referred to as "the 50 percent rules"] are not eligible to participate in the Title IV, HEA programs.

Other statutory provisions, such as those dealing with the length of an academic year and the minimum length of an eligible vocational program, are based on the patterns and structure of "traditional" on-campus education. As such, they can be burdensome and difficult to apply to distance education programs. They may also limit institutions from structuring programs that may best meet the needs of distance education students, institutions, and systems and consortia of such institutions. Similar problems may arise with regard to regulatory provisions implementing part G of title IV of the HEA.

Many of these requirements were put in place to address abuses in the Title IV, HEA programs and until recently did not have much effect on institutions offering distance education programs or courses or their students' eligibility for aid. However, at this point in the evolution of distance education programs, changes to student aid requirements may be necessary to allow students to take full advantage of the opportunities distance education provides and to make it possible for institutions to fully utilize the potential technology now offers to enhance distance education courses and programs. On the other hand, restructuring aid to fit these new patterns presents some risks as well as opportunities, and care in designing alternatives to the current student aid requirements is necessary to assure continued integrity in the Title IV, HEA programs.

In response to these dual concerns, Congress enacted the Distance Education Demonstration Program. As described in section 486(a) of the HEA, the purpose of the program is to—

(1) Allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded

distance education programs currently restricted under this Act;

(2) Provide for increased student access to higher education through distance education programs; and

(3) Help determine the—

(A) Most effective means of delivering quality education via distance education course offerings;

(B) Specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) Appropriate level of federal assistance for students enrolled in distance education programs.

Under the Distance Demonstration Program, participants may offer Title IV, HEA program funds to students enrolled in educational programs utilizing distance education delivery methods for all or a portion of their classes without being subject to certain statutory and regulatory provisions, which the Secretary may waive, upon their request. The purpose of these waivers is to test new ways of administering the Federal student assistance programs and to consider how the law and regulations might be altered to allow for expansion of aid to distance students and still ensure program integrity. In the first year of the program, the Secretary is authorized to select from among eligible applicants, up to a total of 15 institutions, systems of institutions, or consortia of institutions to participate in the program. (For these purposes, a system of institutions could be a group of institutions with a common governing board. An example would be a community college system or a group of private institutions owned by the same corporation. A consortia of institutions could be two or more institutions that have agreed to collaborate on a common effort such as sharing distance education courses or a two-year and four-year institution cooperating to offer a bachelor's degree completion program.)

The Secretary anticipates that the institutions, systems or consortia selected will continue to participate for five years. Participation, of course, will be conditioned upon their meeting the requirements of the Distance Education Demonstration Program and continued participation in Title IV, HEA programs. Institutions desiring to withdraw from the Distance Education Demonstration Program may do so without jeopardy to their participation in Title IV HEA programs. Also, the scope of the participation, such as the specific distance education programs included and waivers provided, may be modified as agreed upon by the Secretary and the participant, to allow for changes in the

programs offered, the modes of delivery used, the size of participants' distance programs, or other changes desired by the Secretary or the participant as experience is gained in the program.

The Department plans to administer this program through an implementation team consisting of staff from various offices within the Department. The Department recognizes the importance of identifying and addressing any problems that arise during the course of the demonstrations. It will facilitate communication among participants and will work with institutions to provide technical assistance throughout the demonstrations, beginning with the application process. Departmental staff with responsibility for monitoring compliance with Title IV program requirements will be well represented on the implementation team and will monitor compliance with the requirements of the Distance Education Demonstration Program.

The Department also anticipates working closely with accrediting agencies and States to determine how their respective roles contribute to assuring quality and integrity. Accrediting agencies will play a substantial role in monitoring the demonstration programs, consistent with their responsibilities. Where State requirements are relevant to distance education programs, the Department will work with States to determine how their monitoring role assists in insuring program integrity.

The participants must agree to provide data and information that will assist the Secretary in evaluating the Distance Education Demonstration Program and in reporting to Congress as required by the statute. The data and information provided by participants will assist the Secretary in determining whether statutory and regulatory changes might be needed to support the growth of quality distance education courses and programs and the appropriate level of Federal assistance for students enrolled in distance education program, two of the purposes of the program that are specified in the statute. The Department will publish a separate notice in the **Federal Register** that will specify the data collection requirements for participants and request comment on the paperwork burden associated with these requirements. To the maximum extent possible, the Department will make the data requirements of this program consistent with already existing data collection requirements, thereby minimizing the burden on participants.

The program is also designed to examine ways to assure the integrity of Title IV, HEA programs in the context of distance education. This examination will be accomplished principally through the close monitoring of participants' administration of Title IV, HEA programs.

#### **Eligible applicants**

The following institutions are eligible to apply to participate in the Distance Education Demonstration Program:

(1) Institutions located in the United States that participate in the Title IV, HEA programs;

(2) Institutions located in the United States that provide a two-year program that leads to an associate degree or a four-year program that leads to a baccalaureate or higher degree and would be eligible to participate in the Title IV HEA programs but for the fact that they do not meet one or both of the 50 percent rules; or

(3) Western Governors University.

In addition, systems and consortia of these institutions are eligible to participate in the program.

#### **Statutory and Regulatory Provisions That May Be Waived**

The Secretary may waive statutory and regulatory provisions. To obtain a waiver, an institution must request the waiver in its application to participate in the program and must provide reasons for the waiver. Where possible, the applicant should suggest an alternative that is designed to meet the same objectives as those achieved by the waived statutory or regulatory provision. For example, if an applicant seeks to waive the requirement that students must achieve satisfactory academic progress as defined in the regulations, the applicant should suggest an alternative means to ensure that Federal student aid funds are provided only to students who are making progress towards a degree or certificate. An applicant need not include an alternative approach with regard to a request to waive one or both of the 50 percent rules.

#### **Statutory Provisions**

The Secretary may waive the following HEA statutory provisions:

- *Section 102(a)(3)(A)*. This section makes an otherwise eligible institution ineligible if more than 50 percent of its courses are offered by correspondence and telecommunication.

- *Section 102(a)(3)(B)*. This section makes an otherwise eligible institution ineligible if 50 percent or more of its students are enrolled in correspondence or telecommunications courses.

- *Section 484(l)(1)*. This section defines a telecommunications student at an institution as a correspondence student if 50 percent or more of the institution's courses are offered by correspondence or telecommunication.

- *The required minimum number of weeks of instruction contained in section 481(a)*. This section provides that an academic year must require at least 30 weeks of instructional time.

- *The required minimum number of weeks of instruction contained in section 481(b)*. This section provides that an eligible vocational program must be provided during a minimum of 15 weeks, or in limited circumstances, 10 weeks.

### Regulatory Provisions

In addition to the aforementioned statutory provisions, the Secretary may waive the regulatory provisions implementing part G of the HEA which inhibit the operation of quality distance education programs. Part G consists of sections 481 through 493B of the HEA. These sections contain numerous provisions dealing with the Title IV, HEA programs. In general, the regulations implementing these provisions are contained in 34 CFR part 668.

(Under the Distance Education Demonstration Program, the Secretary is authorized to waive any regulations governing part F of title IV, which deals with need analysis and costs of attendance. However, the Secretary is not authorized to issue regulations implementing part F; therefore, there are no regulations to waive.)

### Special Waivers for Western Governors University

In addition to the waivers described above, upon the request of Western Governors University, the Secretary may waive statutory provisions contained in title I and parts G and H of title IV of the HEA that the Secretary determines to be appropriate because of the unique characteristics of Western Governors University. If the Secretary grants such a waiver, the Secretary will require the university to undertake actions that are necessary to ensure the integrity of the Title IV, HEA programs and the accountability of Title IV, HEA program funds.

### Application Requirements

Each application to participate in this program shall include—

1. The name, address, and web site address, if any, of the institution, system, or members of the consortium seeking to participate, and the name, title, mailing and E-mail addresses, and

telephone number of a contact person for the institution, system, or consortium;

2. A description of the distance education programs offered or to be offered for which the institution is seeking a waiver or waivers. An institution may request a waiver or waivers for one, several, or all of its distance education courses or programs. The description should include the types of programs, degrees or certificates offered, program goals, and the methods used or proposed to be used to deliver distance education;

3. A description of the applicant's consultation with a recognized accrediting agency or agencies with respect to quality assurances for the distance education programs to be offered;

4. A description of the types of students that the distance education programs are intended to serve, (e.g., adult learners, rural populations, individuals with disabilities);

5. The Title IV, HEA programs under which distance education students will receive funds;

6. The statutory and regulatory provisions to be waived, the scope of each waiver, and the reason for each waiver. The applicant should propose an alternative to the provision(s) or explain why no alternative is necessary;

7. An assurance that the institution, system, or consortium will fully cooperate with the ongoing evaluations of the program; and

8. A statement of the goals of the institution, system, or consortium for participation along with the method the institution will use to evaluate achievement of the goals.

In addition to the information described above, systems and consortia must provide the following additional information—

1. A description of the system or consortium and the relationship among the members of the system or consortium, a copy of any agreement governing the relationship of institutions that are members of the system or consortium, and a list of the institutions which are members;

2. A description of the manner in which the distance education programs are or will be conducted among the system and consortium members particularly as that manner is related to the waiver request; and

3. The manner in which Title IV, HEA program funds will be administered to the students in the distance education programs.

### Selection of Participants

In selecting applicants to participate in the program, the Secretary will take into account the—

1. Number and quality of applications received;

2. Department of Education's capacity to oversee and monitor the applicant's participation;

3. Applicant's financial responsibility; administrative capability; and the program or programs being offered via distance education; and

4. Necessity of including a diverse group of participating institutions *vis-a-vis* size, mission, and geographic distribution.

As part of the selection process, the Department of Education will screen the applications to ensure that applicants are eligible. Then, outside reviewers will recommend the best applications given the statutory criteria. The Secretary will make final selections, based on the recommendations of the outside reviewers and the criteria listed in statute.

### Evaluations

The HEA requires the Secretary to submit reports to Congress evaluating the Distance Education Demonstration Program annually and eighteen months after the initiation of the program. As specified in the Act, the evaluations are to include the following:

1. The extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance.

2. The number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased.

3. Issues related to student financial assistance for distance education.

4. Effective technologies for delivering distance education course offerings.

5. The extent to which statutory or regulatory requirements not waived under the program present difficulties for students or institutions.

To assist the Secretary in conducting such evaluations, participants in the distance education demonstration programs will be required to provide information to the Secretary, such as: course level detail regarding their offerings, the degrees or certificates awarded for successful completion, data on persistence and completion, data regarding student demographics, information regarding tuition and fees charged by the participant, program

design and use of technology, information regarding the educational environment and student support, student satisfaction surveys, and average development costs for each field of study.

Based upon the results of the evaluations during the first year of the program, the Secretary may select up to an additional 35 institutions, systems of institutions, and consortia of institutions to participate in the third year of the program.

#### Guidance

The guidance provided below is intended to assist applicants in determining information they may wish to include in their applications. This guidance is non-binding and does not constitute criteria for selection. Applications which do not include the information suggested in the guidance will be considered on the same basis as applications which include all or part of that information.

1. Applicants should consider describing the ways that they think their proposals will assist the Department in determining new ways of administering Federal student assistance programs that better meet the needs of distance students.

2. It is important that the accrediting and State authorizing agencies of the institution, or institutions that comprise a consortium or system, are willing to collaborate with the Department to determine how their complementary roles can best be structured to assure quality and integrity in institutions' distance education programs. To this end, applicants for the program should provide documentation that their

accrediting agencies and States are willing to work with the Department to examine the respective roles of the agencies as they relate to institutions' distance education programs. In that documentation, accrediting agencies should certify that the individual distance programs that the institution includes in its application are within the scope of the institution's accreditation, and that the agency will review the program at an appropriate time. To the extent that accrediting agencies evaluate a particular consortial or system relationship, the consortium or system's application should include similar information.

3. While the Department will evaluate applications using the statutory criteria, to the extent possible, the Department will view those criteria in the context of the delivery of student aid to distance students and any changes that are needed to facilitate that process. Because the delivery of student aid is so critical to improving access to distance education, a good application would fully describe the applicant's ability to fully execute its plans and specify waivers requested and substitutions and address fully the need for the waivers and substitutions.

4. Applicants should consider establishing both quantitative and qualitative objectives for their participation and include in the application a description of how they intend to measure goal attainment, including measures of program quality. The Department notes that quantitative measures are essential for understanding goal attainment.

5. A major concern of the Department is to insure that Federal funds in the

Distance Education Demonstration Program are used appropriately. A good application will address how the applicant plans to document student eligibility, including documentation of attendance.

#### Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or, toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

**Note:** The official version of a document is the document published in the **Federal Register**.

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Dated: February 1, 1999.

**David A. Longanecker,**  
*Assistant Secretary for Postsecondary Education.*

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