

of this section, if the Secretary determines, based upon persuasive evidence provided by the institution, that—

(1) The institution's failure to satisfy the criteria in paragraph (a) of this section was due to factors which, if used in determining compliance with those criteria, distorted that determination; and

(2) The institution's designation as an eligible institution under this part is otherwise consistent with the purposes of this part.

(d) For the purpose of paragraph (c)(1) of this section, the Secretary considers that the following factors may distort an institution's educational and general expenditures per full-time equivalent undergraduate student—

- (1) Low student enrollment;
- (2) Location of the institution in an unusually high cost-of-living area;
- (3) High energy costs;
- (4) An increase in State funding that was part of a desegregation plan for higher education; or
- (5) Operation of high cost professional schools such as medical or dental schools.

(Authority: 20 U.S.C. 1101a and 1103a)

**§ 606.5 How does an institution apply to be designated an eligible institution?**

(a) An institution applies to the Secretary to be designated an eligible institution under this part by first submitting an application to the Secretary in the form, manner, and time established by the Secretary. The application must contain—

(1) The information necessary for the Secretary to determine whether the institution satisfies the requirements of §§ 606.2, 606.3(a), and 606.4(a);

(2) Any waiver request under §§ 606.3(b) and 606.4(c); and

(3) Information or explanations justifying any requested waiver.

(b) An institution that wishes to receive a grant under this part must submit, as part of its application for that grant, an assurance that when it submits its application—

(1) Its enrollment of undergraduate full-time equivalent students is at least 25 percent Hispanic students; and

(2) Not less than 50 percent of its Hispanic students are low-income individuals.

(Authority: 20 U.S.C. 1101a and 1103)

**§ 606.6 What regulations apply?**

The following regulations apply to the Developing Hispanic-Serving Institutions Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except 34 CFR 75.128(a)(2) and 75.129(a) in the case of applications for cooperative arrangements.

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 606.

(Authority: 20 U.S.C. 1101 *et seq.*)

**§ 606.7 What definitions apply?**

(a) *Definitions in EDGAR.* The terms used in this part are defined in 34 CFR 77.1:

- EDGAR
- Fiscal year
- Grant
- Grantee
- Grant period
- Nonprofit
- Private
- Project period
- Public
- Secretary
- State

(b) The following definitions also apply to this part:

*Accredited* means the status of public recognition which a nationally recognized accrediting agency or association grants to an institution which meets

certain established qualifications and educational standards.

*Activity* means an action that is incorporated into an implementation plan designed to meet one or more objectives. An activity is a part of a project and has its own budget that is approved to carry out the objectives of that subpart.

*Base year* means the second fiscal year preceding the fiscal year for which an institution seeks a grant under this part.

*Branch campus* means a unit of a college or university that is geographically apart from the main campus of the college or university and independent of that main campus. The Secretary considers a unit of a college or university to be independent of the main campus if the unit—

- (1) Is permanent in nature;
- (2) Offers courses for credit and programs leading to an associate or bachelor's degree; and
- (3) Is autonomous to the extent that it has—
  - (i) Its own faculty and administrative or supervisory organization; and
  - (ii) Its own budgetary and hiring authority.

*Comparable institutions that offer similar instruction* means institutions that are being compared with an applicant institution and that fall within one of the following four categories—

- (1) Public junior or community colleges;
- (2) Private nonprofit junior or community colleges;
- (3) Public institutions that offer an educational program for which they offer a bachelor's degree; or
- (4) Private nonprofit institutions that offer an educational program for which they offer a bachelor's degree.

*Cooperative arrangement* means an arrangement to carry out allowable grant activities between an institution eligible to receive a grant under this part and another eligible or ineligible institution of higher education, under which the resources of the cooperating institutions are combined and shared to better achieve the purposes of this part and avoid costly duplication of effort.

*Degree student* means a student who enrolls at an institution for the pur-

pose of obtaining the degree, certificate, or other recognized educational credential offered by that institution.

*Developmental program and services* means new or improved programs and services, beyond those regularly budgeted, specifically designed to improve the self sufficiency of the school.

*Educational and general expenditures* means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

*Educationally disadvantaged* means a college student who requires special services and assistance to enable them to succeed in higher education. The phrase includes, but is not limited to, students who come from—

- (1) Economically disadvantaged families;
- (2) Limited English proficiency families;
- (3) Migrant worker families; or
- (4) Families in which one or both of their parents have dropped out of secondary school.

*Federal Pell Grant Program* means the grant program authorized by title IV-A-1 of the HEA.

*Federal Perkins Loan Program*, formerly called the National Direct Student Loan Program, means the loan program authorized by title IV-E of the HEA.

*Federal Supplemental Education Opportunity Grant Program* means the grant program authorized by title IV-A-3 of the HEA.

*Federal Work-Study Program* means the part-time employment program authorized under title IV-C of the HEA.

*Full-time equivalent students* means the sum of the number of students enrolled full-time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

*HEA* means the Higher Education Act of 1965, as amended.

*Hispanic student* means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

*Institution of higher education* means an educational institution defined in section 101 of the HEA.

*Junior or community college* means an institution of higher education—

(1) That admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) That does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) That—

(i) Provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

(ii) Offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

*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.

*Minority student* means a student who is an Alaska Native, American Indian, Asian-American, Black (African-American), Hispanic American, Native Hawaiian, or Pacific Islander.

*Nationally recognized accrediting agency or association* means an accrediting agency or association that the Secretary has recognized to accredit or preaccredit a particular category of institution in accordance with the provisions contained in 34 CFR part 603. The Secretary periodically publishes a list of those nationally recognized accrediting agencies and associations in the FEDERAL REGISTER.

*Operational programs and services* means the regular, ongoing budgeted

programs and services at an institution.

*Preaccredited* means a status that a nationally recognized accrediting agency or association, recognized by the Secretary to grant that status, has accorded an unaccredited institution that is progressing toward accreditation within a reasonable period of time.

*Project* means all the funded activities under a grant.

*Self-sufficiency* means the point at which an institution is able to survive without continued funding under the Developing Hispanic-Serving Institutions Program.

*Underrepresented* means proportionate representation as measured by degree recipients, that is less than the proportionate representation in the general population—

(1) As indicated by—

(i) The most current edition of the Department's *Digest of Educational Statistics*;

(ii) The National Research Council's *Doctorate Recipients from United States Universities*; or

(iii) Other standard statistical references, as announced annually in the FEDERAL REGISTER notice inviting applications for new awards under this program; or

(2) As documented by national survey data submitted to and accepted by the Secretary on a case-by-case basis.

(Authority: 20 U.S.C. 1101 *et seq.*; OMB Directive No. 15)

**§ 606.8 What is a comprehensive development plan and what must it contain?**

(a) A comprehensive development plan is an institution's strategy for achieving growth and self-sufficiency by strengthening its—

- (1) Academic programs;
- (2) Institutional management; and
- (3) Fiscal stability.

(b) The comprehensive development plan must include the following:

- (1) An analysis of the strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability.