



Tuesday
August 3, 1999

Part III

**Department of
Education**

**34 CFR Parts 668, 673, 674, 675, 676,
and 690**

**Student Assistance General Provisions;
General Provisions for the Federal
Perkins Loan Program, Federal Work-
Study Program, Federal Supplemental
Educational Opportunity Grant Program,
and Federal Pell Grant Program;
Proposed Rule**

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 673, 674, 675, 676, and 690

RIN 1845-AA01

Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program; and Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulations would amend the regulations governing the Student Assistance General Provisions, the Campus-Based programs (Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs), and the Federal Pell Grant Program. These proposed amendments are a result of recently enacted changes to the Higher Education Act of 1965, as amended (HEA), made by the Higher Education Amendments of 1998 (1998 Amendments).

DATES: We must receive your comments on or before September 15, 1999.

ADDRESSES: Address all comments about these proposed regulations to: Ms. Kathy Gause, U.S. Department of Education, P.O. Box 23272, Washington, D.C. 20026-3272. If you prefer to send your comments through the Internet use the following address: CBPeINPRM@ed.gov

If you want to comment on the information collection requirements you must send your comments to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. You may also send a copy of these comments to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT:

1. For the Federal Perkins Loan, FWS, and FSEOG programs: Ms. Kathy Gause, U.S. Department of Education, 400 Maryland Avenue, S.W., Regional Office Building 3, Room 3045, Washington, DC 20202-5447. Telephone: (202) 708-8242.

2. For the Student Assistance General Provisions and the Federal Pell Grant Program: Ms. Monica Woods, U.S. Department of Education, 400 Maryland Avenue, S.W., Regional Office Building 3, Room 3045, Washington, DC 20202-5447. Telephone: (202) 708-8242.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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 persons listed in the preceding paragraphs.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the programs.

During and after the comment period, you may inspect all public comments about these proposed regulations in Room 3053, ROB-3, 7th & D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid you may call (202) 205-8113 or (202) 260-9895. If you use a TDD, you may call the Federal Information Relay Service at 1-800-877-8339.

Negotiated Rulemaking Process

Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs under Title IV of the Act, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All published proposed regulations must conform to agreements

resulting from the negotiated rulemaking process unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from the agreements.

To obtain public involvement in the development of the proposed regulations, we published a notice in the **Federal Register** (63 FR 59922, November 6, 1998) requesting advice and recommendations from interested parties concerning what regulations were necessary to implement Title IV of the HEA. We also invited advice and recommendations concerning which regulated issues should be subjected to a negotiated rulemaking process. We further requested advice and recommendations concerning ways to prioritize the numerous issues in Title IV, in order to meet statutory deadlines. Additionally, we requested advice and recommendations concerning how to conduct the negotiated rulemaking process, given the time available and the number of regulations that needed to be developed.

In addition to soliciting written comments, we held three public hearings and several informal meetings to give interested parties an opportunity to share advice and recommendations with the Department. The hearings were held in Washington, DC, Chicago, and Los Angeles, and we posted transcripts of those hearings to the Department's Information for Financial Aid Professionals' website (<http://ifap.ed.gov>).

We then published a second notice in the **Federal Register** (63 FR 71206, December 23, 1998) to announce the Department's intention to establish four negotiated rulemaking committees to draft proposed regulations implementing Title IV of the HEA. The notice announced the organizations or groups believed to represent the interests that should participate in the negotiated rulemaking process and announced that the Department would select participants for the process from nominees of those organizations or groups. We requested nominations for additional participants from anyone who believed that the organizations or groups listed did not adequately represent the list of interests outlined in section 492. Once the four committees were established they met to develop proposed regulations over the course of several months, beginning in January.

The proposed regulations contained in this notice of proposed rulemaking (NPRM) reflect the final consensus of Committee III, which was made up of the following members:

Accrediting Commission of Career Schools and Colleges of Technology
 American Association of Collegiate Registrars and Admissions Officers
 American Association of Community Colleges
 American Association of Cosmetology Schools
 American Association of State Colleges and Universities
 American Council on Education
 Association of American Universities
 Career College Association
 Coalition of Higher Education Assistance Organizations
 Education Finance Council
 Legal Services Counsel (a coalition)
 National Association of College and University Business Officers
 National Association of Equal Opportunity in Higher Education
 National Association of Graduate/Professional Students
 National Association of Independent Colleges and Universities
 National Association of State Student Grant and Aid Programs/National Council of Higher Education Loan Programs (a coalition)
 National Association of State Universities and Land-Grant Colleges
 National Association of Student Financial Aid Administrators
 National Direct Student Loan Coalition
 The College Board
 The College Fund/United Negro College Fund
 United States Department of Education
 United States Student Association
 US Public Interest Research Group

As stated in the Committee protocols, consensus means that there must be no dissent by any member in order for the committee to be considered to have reached agreement. Consensus was reached on all of the proposed regulations in this document.

Affected Programs

The student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended (HEA), affected by these proposed regulations are the Federal Perkins Loan, FWS, FSEOG, and the Federal Pell Grant programs. These proposed regulations also affect the Student Assistance General Provisions regulations.

The term "campus-based programs" refers to the Federal Perkins Loan, FWS, and FSEOG programs. A description of the major proposed changes to these program regulations follows. The proposed changes that pertain to more than one program are described first, followed by descriptions of provisions that pertain to only a specific program. We will begin with a discussion of the proposed changes to the Student Assistance General Provisions regulations followed by the "campus-

based programs" discussion, and end with proposed changes to the Federal Pell Grant Program.

Summary of Proposed Regulatory Changes

Student Assistance General Provisions

Section 668.8 Eligible Program and Section 668.32 Student Eligibility—General

Section 401(c) of the HEA was amended by the 1998 Amendments to allow students enrolled in a postbaccalaureate teacher certificate or licensing program to receive a Federal Pell Grant. For purposes of the Federal Pell Grant Program, the current Student Assistance General Provisions regulations require an educational program to be an undergraduate program in order to qualify as an eligible program. The current regulations also require that a student not have a baccalaureate degree or first professional degree in order to receive a Federal Pell Grant. These proposed regulations would amend the eligible program provision in § 668.8 and the student eligibility provision in § 668.32 of the Student Assistance General Provisions to conform with the amended HEA.

Section 668.161 Scope and Purpose.

Amended section 445(c) of the HEA allows an institution, upon the written request of a student, to make payments of FWS funds directly to the student's account at a financial institution or account at the institution for tuition and fees, contracted room and board, and other institutionally provided educational related goods and services. Currently §§ 668.164 and 668.165 of the *Subpart K—Cash Management* regulations establish the rules and procedures under which a participating institution disburses Title IV, HEA program funds. However, Subpart K does not specifically address the crediting of FWS earnings to a student's account at the institution. Section 675.16 of the FWS regulations would be amended to establish the disbursement procedures for paying a student his or her wages. Therefore, these proposed regulations would amend § 668.161 to indicate that an institution must follow § 675.16 for paying a student under the FWS Program instead of §§ 668.164 and 668.165.

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

Section 673.5 Overaward

These proposed regulations would modify the overaward provisions in

§ 673.5 of the regulations for the campus-based programs. Section 428(a)(2)(C) of the HEA was amended to change the definition of estimated financial assistance to exclude veterans education benefits under Title 38, Chapter 30 (Montgomery GI Bill) and national service education awards or post-service benefits under Title I of the National and Community Service Act of 1990 (AmeriCorps) in determining a student's eligibility for subsidized loans. This applies to a subsidized Federal Stafford Loan (subsidized Stafford Loan) under the Federal Family Education Loan (FFEL) Program and a Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) under the William D. Ford Federal Direct Loan (Direct Loan) Program.

Under current campus-based regulations, if a student has both a subsidized loan and campus-based aid the most stringent requirement regarding resources becomes operative since the student's eligibility for campus-based funds is reduced by the amount of subsidized loans and any Montgomery GI Bill benefits and AmeriCorps funds, or both, paid for the cost of attendance. Thus, students receiving subsidized loans because of the new exclusion of these benefits may have their eligibility for campus-based aid reduced. The Committee concluded that, under the new statute, a student should not lose campus-based eligibility because of the interaction of the various Title IV programs. Therefore, in order to allow students to have the full advantage of this statutory exclusion of benefits without losing campus-based eligibility, these proposed regulations would change the definition of "resources" for the campus-based programs in cases where a student receives both a subsidized loan and Montgomery GI Bill veterans education benefits and/or an AmeriCorps education award. These regulations are proposing that when packaging a student's financial aid under the campus-based programs, an institution may exclude as a resource any portion of a subsidized Stafford Loan or a Direct Subsidized Loan that is equal to or less than the amount of the student's Montgomery GI Bill veterans education benefits and AmeriCorps education awards or post-service benefits paid for the cost of attendance.

Sections 674.10, 675.10, and 676.10 Selection of Students

Current regulations require institutions to offer to less-than-full-time and independent students at least five percent of its FWS allotment, five percent of its FSEOG allotment, or five percent of the dollar amount of the

loans made under the Federal Perkins Loan Program if the need of all these students exceeds five percent of the total need of all students at an institution. These proposed regulations would amend §§ 674.10, 675.10, and 676.10 in accordance with amended sections 413C(d), 443(b)(3), and 464(b)(2) of the HEA, to provide that if an institution's FWS, FSEOG, or Federal Perkins Loan (respectively) allocation is directly or indirectly based in part on the financial need of less-than-full-time or independent students, then the institution must offer to those students a reasonable portion of the FWS allocation, FSEOG allocation, or dollar amount of Federal Perkins Loans made.

The language in the sections of the HEA referred to above require institutions to "make available" campus-based funds to less-than-full-time and independent students. The Committee realized that in some circumstances it may be difficult for an institution actually to disburse funds to these students because institutions have no control over whether students will accept aid. Therefore, to accommodate these circumstances and prevent a burden on institutions, the Committee agreed that the words "make available" should be interpreted to mean that the institution must "offer" the funds to less-than-full-time and independent students.

These proposed regulations contain no definition of the statutory words "reasonable portion". Institutions are expected to have reasonable packaging policies for awarding campus-based funds. A policy of exclusion for less-than-full-time and independent students would not be acceptable for purposes of this requirement.

Federal Work-Study Programs

Section 675.2 Definitions

In an effort to increase participation of FWS students in community service activities, the definition of "community services," in section 441(c) of the HEA has been amended. The definition of "community services" now includes child care services provided on campus that are "open and accessible to the community" and services to students with disabilities who "are enrolled at the institution." These proposed regulations would amend § 675.2 of the FWS regulations to reflect these statutory changes.

Child care services. The statutory changes do not alter the Secretary's current policy on the inclusion of child care services provided on campus as "community service".

This policy is described in Part 3 of *The 1999-2000 Student Financial Aid Handbook* and in "Dear Colleague" letters CB-94-4, dated March 1994, and CB-97-12, dated July 1997. On-campus jobs can meet the definition of community service jobs if the services provided are open and accessible to the community. A university or college in and of itself is not considered the community for this purpose.

A service (i.e., child care) is considered open to the community if the service is publicized to the community and the general public uses the service. These regulations are not proposing to set a numerical count or percentage requirement for institutions to demonstrate public use of the service. However, if the service is provided only to students, faculty, staff, and their families, an FWS job does not meet the definition of "community service" under the FWS Program.

Services for students with disabilities. The 1998 Amendments also amended the definition of "community services" to include the provision of support services for students with disabilities who are enrolled at the institution. Current regulations provide that on-campus jobs providing support services for students with disabilities could meet the definition of "community services" only if those services were provided to the community as well. Under section 441(c)(3) of the amended HEA, services to students with disabilities are to be considered as community service activities, even if the services are provided exclusively to students with disabilities who are enrolled at the institution. This is the only statutory exception to the requirement that community services must be open and accessible to the community.

Section 675.8 Program Participation Agreement

These proposed regulations would amend the provisions governing the program participation agreement between the Secretary and the institution in § 675.8 in accordance with the statutory change in section 443(b)(6) of the HEA. The statutory change eliminates the requirement that institutions employing FWS students must make "equivalent employment" offered or arranged by the institution reasonably available to all students at the institution who desire to work.

Section 675.16 Payments Directly to the Student's Account

These proposed regulations would amend § 675.16, in accordance with amended section 445(c) of the HEA, to allow an institution, upon the written

request of a student, to make payments of FWS funds directly to the student's account at a financial institution or the student's account at the educational institution for tuition and fees, contracted room and board, and other institutionally-provided educationally-related goods and services.

Currently, the FWS regulations prohibit an institution from directly transferring the Federal share of FWS earnings to a student's account at the institution. Since the FWS Program regulations allow for payment to the student by check or similar instrument, the Department in the past eased the administrative burden for institutions by allowing for the electronic transfer of FWS compensation to the student's bank account. This procedure was acceptable if the student signed an authorization for the electronic transfer and the institution maintained that authorization on file. The institution could not require a student to use this method as a condition for receiving FWS funds.

The 1998 Amendments broaden the institution's authority concerning students who want their FWS earnings credited to their accounts at the institution to cover institutional charges. Institutions already had this authority for all other Title IV, HEA program funds under §§ 668.164 and 668.165 of the *Subpart K—Cash Management* regulations.

Under § 668.165 of the current regulations an institution is required to provide specific award information to a student before it starts disbursing Title IV, HEA funds for any award year. However, under the proposed regulations § 668.165 will not apply to the FWS Program. Therefore, to have this requirement continue to apply to the FWS Program, these regulations are proposing that this student notification requirement be added to the FWS regulations in § 675.16. These regulations also propose that an institution, before making an initial disbursement of FWS compensation for an "award period" to a student, must notify the student of the amount of FWS compensation he or she is authorized to earn, and how and when the compensation will be paid.

An "award period" is the period of time covered by the FWS award made to a specific student. For example, if an institution makes an FWS award to a student for only the summer, the "award period" is that period of time. In this example, the period of time crosses over two award years and the portion of compensation earned up to June 30 is reported for one award year and the compensation earned after that

date is reported for the next award year. It is not the intention of the proposed regulations to require that an institution inform the student about the summer award again even though a new award year has started. Because of this factor, the proposed FWS regulations for the student notification refer to an "award period" and not an award year.

FWS Program student rights and responsibilities. The FWS Program's purpose is to provide part-time employment to needy undergraduate and graduate students. The important distinction to be made between FWS Program funds and other Title IV program funds is that under the FWS Program, the students hold jobs and their compensation is earned and governed by the same applicable Federal, State, or local laws as any other type of earnings from employment. These proposed regulations would allow institutions to credit FWS earnings to a student's account at the institution or to initiate an EFT to a bank account designated by the student under the following conditions:

- The institution must obtain a written authorization from the student;
- The authorization to transfer funds to a student's account at the institution must be separate from the authorization to have funds transferred to his or her bank account;
- For purposes of the authorization to transfer FWS funds to a student's bank account, the bank forms required to initiate a direct EFT deposit can be considered the authorization;
- The authorization cannot be included as part of a list or in combination with other types of authorizations signed by the student;
- The student may not be required or coerced to provide the authorization;
- The student must be allowed to cancel or modify the authorization at any time;
- The institution must clearly explain how it will use the authorization; and
- If an institution credits a student's account and the total amount of FWS funds credited exceeds the amount of tuition and fees, contracted room and board, and charges for other institutionally-provided educationally-related goods and services, the student must be paid the balance as soon as possible by the institution. However, a credit balance must be paid no later than 14 days after the balance occurred on the student's account.

Holding excess FWS funds on behalf of students. These proposed regulations would also allow an institution to hold, on behalf of a student, FWS funds that would otherwise be paid directly to the student after a balance occurred on the

student's account unless specifically prohibited by the Secretary under the terms of a reimbursement payment method.

To hold FWS funds for a student, an institution must:

- Obtain a written authorization from the student for this specific purpose;
- Identify the amount of FWS funds held in excess for each student in a designated subsidiary ledger account;
- Maintain cash in its bank account that is always at a minimum equal to the FWS funds being held for students; and
- Pay any remaining balance by the end of the institution's final FWS payroll period for an award period.

Section 675.18 Use of Funds

These regulations propose several amendments to § 675.18.

Carry back funds for summer employment. First, to provide consistency with the new authority in the FSEOG Program to carry back FSEOG funds, these regulations are proposing to change the date of May 15 in § 675.18(f) to May 1. Currently, an institution is authorized to make payments of FWS funds from the succeeding award year's allocation to students for services performed on or after May 15 of the previous award year but prior to the beginning of the succeeding award year (that is, for summer employment). The HEA now provides this same additional "carry-back" authority for the FSEOG Program. After discussion of various possible dates, the Committee agreed that May 1 is a more realistic date. This is the only proposed change for the FWS carry-forward/carry-back provision.

Community service percentage requirement: Second, in accordance with amended section 443(b)(2) of the HEA, these regulations are proposing to amend § 675.18(g) to provide that institutions are required to use at least seven percent of the total funds granted to the institution to compensate students employed in community service activities for the 2000–2001 and subsequent award years. Currently, institutions are required to use at least five percent of those funds to compensate those students.

New reading tutoring and family literacy project requirement. Third, in accordance with amended section 443(b)(2) of the HEA, these regulations also propose to amend § 675.18(g) to require that, beginning with the 2000–2001 award year, an institution must ensure that one or more of its FWS students is employed (1) in a reading tutoring project as a reading tutor for children who are preschool age or are in elementary school, or (2) in a family

literacy project performing family literacy activities. As discussed in the preceding paragraph, the HEA previously required that an institution use a specified percentage of its annual FWS allocation to employ students in community service jobs. Although the types of community service jobs were not specified, employing students to tutor children in reading or to work in a family literacy program was recommended to institutions because of the national critical needs in these areas. Encouragement is provided to institutions to employ students in these areas in § 675.26 of the FWS regulations through waivers of the FWS institutional-share requirement.

Family literacy projects. As defined in "Dear Colleague" letter CB–98–6, dated May 1998, a family literacy project integrates four components. It provides:

- Literacy or pre-literacy education to children;
- Literacy training for parents or other caregivers of children in the program;
- A means of equipping parents or other caregivers with the skills needed to partner with their children in learning; and
- Literacy activities between parents or other caregivers and their children.

This definition is consistent with the *Even Start* and *Head Start* definitions of family literacy programs. The four parts make up a comprehensive family literacy project. The interaction between parent (or caregiver) and child is very important. The family literacy concept recognizes the family as an institution for education and learning and the role of parents as their children's first teachers. The family literacy concept also is based on the premise that an investment in the education of adults in a family is, simultaneously, an investment in improving the chances for academic success for the children in that family. For more information about family literacy projects, you can review "Dear Colleague" letter CB–98–6 on the Information for Financial Aid Professionals (IFAP) web site at: <http://IFAP.ed.gov>

Waiver—Employment of students as reading tutors or in a family literacy project: Section 443(b)(2) of the HEA provides for a waiver of the community service requirement if the Secretary determines that enforcing the requirement would cause hardship for students at the institution. Institutions seeking a waiver of the community service requirement are required to follow the Department's procedure. This procedure requires institutions to submit a written waiver request and any supporting information or documents by

a date established by the Secretary and published in the **Federal Register** each year.

The 1998 Amendments revised section 443(b)(2) of the HEA to grant the Secretary the same waiver authority with respect to the new statutory requirement that institutions must ensure that one or more of its FWS students is employed in a reading tutoring project as a reading tutor for children or in a family literacy project performing family literacy activities. Therefore, these proposed regulations would provide for a waiver if the Secretary determines that enforcing this requirement would create a hardship for students at the institution. The Department would use a waiver procedure that requires institutions seeking a waiver of this new requirement to apply for this waiver in the same manner as for the community service requirement waiver. The institution would be required to submit a written waiver request and any supporting information or documents by the date established by the Secretary and published in the **Federal Register** each year.

The Secretary has approved some waivers to institutions of the community service requirement. In the waiver requests that received approval, the institutions stated that their FWS allocation was very small. It was noted that five percent (increase to seven percent beginning with the 2000–2001 award year) of the FWS allocation only provided enough funds for a student to work for a short period; therefore, the schools were unable to find short-term placement for community service. This was considered a hardship to the student. The fact that it may be difficult for the institution to comply with this provision is not in and of itself a basis for granting a waiver.

Reading tutoring requirement—Priority for schools. Fourth, if an institution employs FWS students as reading tutors in elementary schools, section 443(d)(2) of the HEA requires the institution, to the extent practicable, to give priority to employing students in schools that are participating in a reading reform project. The 1998 Amendments require that the reading reform project be one that is designed to train teachers how to teach reading on the basis of scientifically-based research on reading and funded under the Elementary and Secondary Education Act of 1965, as amended (ESEA). Under the new tutoring and literacy activities, the amended HEA also requires that the FWS students tutoring reading in a school participating in a reading reform project described above receive training

from the employing school in the instructional practices used by the school. The Secretary recommends that institutions contact their local educational agency to find out if any elementary schools in their area participate in a reading reform project funded under the ESEA.

This new provision supports the President's "America Reads Challenge" which is designed to ensure that all children read independently and well by the end of the third grade, and also targets at-risk children.

Reading reform projects. The Reading Excellence Act amended Title II of the ESEA by adding a component to improve students' reading ability. The Reading Excellence Act recognizes a reading reform project to be a project that supports the improvement of reading instruction. The projects are funded by the Department of Education through competitive grants to State educational agencies. The Secretary believes that most educational policy makers and practitioners have come to agree that school reform can result in increased student achievement only to the extent that the following four principles are implemented: (1) Set high academic standards that all students are expected to achieve; (2) Measure student progress; (3) Ensure that there is a well-qualified teacher in every classroom; and (4) Hold schools accountable for results.

Payment for time spent in training and travel. Fifth, in accordance with amended section 443(b)(2)(A) of the HEA, these proposed regulations would amend § 675.18 to provide that an institution may pay FWS students for a reasonable amount of time spent for training for any FWS employment, and for travel that is directly related to employment in community service activities (including tutoring in reading and family literacy activities).

Since every job consists of some type of training, whether formal or informal, it has been the Department's policy to allow FWS students to be paid wages during a training period conducted for a reasonable length of time. This policy has applied whether the student was employed in community service activities or not. Therefore, this provision of the proposed regulations is not a change to previous Department policy. The Secretary recognizes that jobs such as math or reading tutors may require more training than other FWS positions. A training period of an academic term would not be considered reasonable because the goal of the FWS Program is to optimize the number of hours an FWS student spends working. The Secretary would consider a

reasonable training period to be one that occurs before the student begins the duties of tutoring and that does not exceed approximately 20 hours. Students may also be compensated for a reasonable amount of time to perform on-going activities (i.e., preparation and evaluation time) necessary to accomplish their tutoring jobs.

The new provision in section 443(b)(2)(A) for compensating FWS students for time spent traveling to and from their community service job does change current policy. Beginning with the 1999–2000 award year, institutions will be allowed to pay students for a reasonable amount of time spent for travel that is directly related to employment in community service activities. The Department's policy would require that the time spent for travel be reported on the student's FWS time record as the hours worked are currently reported. The Secretary recommends that institutions use a time record that shows a separation for the time spent in travel from hours worked.

Section 675.20 Eligible Employers and General Conditions and Limitation on Employment

In accordance with amended section 443(b)(1) of the HEA, the proposed regulations amend § 675.20 to clarify that FWS employment may include internships, practicums, or assistantships (e.g., research or teaching assistantships). The 1998 Amendments do not alter the Secretary's current policy on an FWS student receiving academic credit from the work performed in an FWS job. This policy as discussed below is described in Part 3 of *The 1999–2000 Student Financial Aid Handbook*.

It has been the Department's longstanding policy that a student could receive academic credit from the work performed under the FWS Program. However, certain restrictions apply to this type of employment. An internship, practicum, or assistantship does not qualify for FWS employment unless the employer would normally pay the student for the same work even if that student were not FWS eligible. If the employer normally pays or has paid such persons, the internship, practicum, or assistantship qualifies as an FWS job. An example of an internship that normally does not qualify as an FWS job is student teaching because student teachers are not usually compensated for that activity. Also, current Department policy is that a student who receives academic credit for an FWS job cannot be paid any less than he or she would be paid if no academic credit were received.

The 1998 Amendments allow a student to earn FWS funds while earning academic credit in the jobs listed in the prior paragraph because these types of jobs are considered to be outside the normal realm of classroom experience. The list of jobs in these proposed regulations is not meant to be exhaustive. However, Department policy does not allow a student to be paid for receiving instruction in a classroom, laboratory, or other academic setting. Institutions must continue to ensure that students are not being paid for attending class.

Department policy allows an FWS student to be assigned to assist an instructor at any private nonprofit or public institution if the student is doing work the institution would normally support under its own employment program. For example, having a student serve as a research assistant to a professor is appropriate, so long as the work is in line with the professor's official duties and is considered work for the institution itself. However, at a proprietary institution a student may not assist an instructor because instructional activities are not considered student services under § 675.2(b) of the current regulations.

Section 675.23 Employment Provided by a Private For-Profit Organization

Current regulations provide that if a student is employed by a private for-profit organization the work that the student performs must be academically relevant to the student's educational program. In accordance with amended section 443(c)(4) of the HEA, these proposed regulations would amend § 675.23(b) to provide that jobs in a private for-profit organization must be academically relevant only to the maximum extent possible. This change would allow some students to pursue other employment opportunities that provide other valuable experiences outside their field of study.

Section 675.26 FWS Federal Share Limitations

Current regulations provide that the Federal share of FWS compensation paid to a student employed other than by a for-profit organization may not exceed 75 percent. In accordance with amended section 443(b)(5) of the HEA, these regulations propose to amend § 675.26 to provide that the Federal share of an FWS student's compensation may exceed 75 percent, but may not exceed 90 percent, if the student is employed at a nonprofit or a public organization that cannot afford to pay the regular non-Federal share. Institutions that choose to use this

provision would have to meet several requirements as prescribed in amended section 443(b)(5) of the HEA:

- No placement at the institution itself would be eligible for the 90 percent match, nor at any agency owned, operated or controlled by the institution. It is the Secretary's view and the Committee agreed that a statement in the institution's file, signed by both the organization and the institution, stating that they have no relationship would satisfy this requirement.

- The organization would have to be selected by the institution on an individual case-by-case basis. It is the Secretary's view and the Committee agreed that an institution would satisfy this requirement by selecting the nonprofit or public organization that meets the requirements of this provision through its normal process of selecting potential employers.

- The nonprofit or public organization must be otherwise unable to afford the costs of this employment. In the Secretary's view and the Committee agreed, a signed letter in the institution's file from an official of the organization stating that the organization cannot afford to pay the regular non-Federal share would be sufficient evidence of the organization's inability to pay.

- This 90 percent funding level would be limited to no more than 10 percent of the students paid under the FWS program. For purposes of this calculation, the 1998 Amendments provide that the institution must use the total number of students paid under the FWS Program during the current award year.

It is important to note that this proposed 10 percent limit on the number of students paid at the 90 percent funding level does not include students whose FWS wages have been exempted from the full institutional match due to current regulations in § 675.26(d) that establish waiver criteria. These proposed regulations would continue to authorize a Federal share of 100 percent of the FWS funds awarded to students by an institution for an award year if the following provisions in the current regulations apply:

- The institution requests the increased Federal share on the Fiscal Operations Report and Application to Participate for that year and is designated as an eligible institution under the Strengthening Institutions Program (34 CFR part 607), the Strengthening Historically Black Colleges and Universities Program (34 CFR part 608), or the Strengthening Historically Black Graduate Institutions Program (34 CFR part 609);

- The student is employed as a reading tutor for preschool age children or children who are in elementary school;

- The student is employed in a family literacy program that provides services to families with preschool age children or children who are in elementary school; or

- The student is employed as a mathematics tutor for children who are in elementary school through the ninth grade.

Work-Colleges Program (Subpart C)

Section 675.45 Allowable Costs, Federal, Share, and Institutional Share

The Work-Colleges Program was created by the Higher Education Amendments of 1992 to encourage comprehensive work-learning programs and recognize the special nature of institutions that choose to make work-learning a central part of their educational programs. These proposed regulations would amend § 675.45(a) of the current regulations in accordance with amended section 448 of the HEA to provide Work-Colleges with more flexibility in the use of their funds. These proposed regulations would allow participants in the Work-Colleges Program to coordinate and carry out joint projects and activities to promote work service learning.

These proposed regulations would also allow Work-Colleges to use funds available to them to conduct a comprehensive longitudinal study of academic progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed and career choice and community service selected after graduation. The Secretary and the Committee expect that the results of this study will provide valuable information about the work-learning experience.

Federal Supplemental Educational Opportunity Grant Program

Section 676.18 Use of Funds

In accordance with amended section 413E of the HEA, these proposed regulations would amend § 676.18 to add a new authority for an institution to carry up to ten percent of its current award year FSEOG allocation forward to spend in the next award year and to carry back up to ten percent of its current award year allocation to spend in the prior award year. Current regulations provide institutions with this flexibility under the FWS Program, but not under the FSEOG Program.

In accordance with amended section 413E, the proposed amendments would also permit institutions to carry back any portion of its current award year FSEOG allocation to make awards to students for payment periods that begin on or after May 1 of the prior award year but end prior to the start of the current award year (summer enrollment through June 30). This carry-back authority would be in addition to the authority to carry back ten percent of the succeeding year's allocation for use at any time during the preceding award year.

Authority to Carry Forward and Carry Back FSEOG Funds During the 1998-99 Award Year

Under proposed § 676.18, institutions would be allowed to use the new authority provided by amended section 413E beginning with the 1998-99 award year. The Secretary has decided and the Committee agreed that the new carry-forward/carry-back authority for the FSEOG Program may be implemented using the same general concepts used for the FWS Program. Under the proposed regulations, the official allocation letter for a specific award period would be the institution's authority to exercise this option. Any of the funds carried forward or back must be reported on the institution's Fiscal Operations and Application to Participate (FISAP). For example, if an institution carried forward 10 percent of its 1998-99 FSEOG allocation to spend in award year 1999-2000, the institution would be required to report this amount on the FISAP to be submitted by October 1, 1999. Before an institution may spend its current year's allocation, it must spend any funds carried forward from the previous year.

Note: Due to the timing of the effective date of the law, an institution is not able to carry back 1998-1999 FSEOG funds to spend in the 1997-98 award year or carry forward 1997-1998 FSEOG funds to spend in the 1998-1999 award year.

These proposed changes will give institutions the flexibility to provide additional FSEOG funds to students at a time when traditionally there were no FSEOG funds available, and also help prevent the need for an institution to return unused FSEOG funds for a particular award year.

Federal Pell Grant Program

Section 690.6 Duration of Student Eligibility—Undergraduate Course of Study and Eligible Postbaccalaureate Program

The current regulations restrict Federal Pell Grant eligibility to students who have not earned a baccalaureate

degree. The 1998 Amendments revised section 401(c) of the HEA to extend Federal Pell Grant eligibility to students enrolled in a postbaccalaureate teacher certificate or licensing program even if they have earned a bachelor's degree.

In order to teach in most States, students must complete teacher preparation courses. Some institutions incorporate these courses into a baccalaureate program, while others offer these courses upon completion of a baccalaureate program. To complete the teacher preparation courses after earning a baccalaureate degree requires a fifth year of undergraduate study. This fifth year of undergraduate study is comparable to a fourth year of undergraduate study for a baccalaureate program that incorporates teacher preparation. The 1998 Amendments modified the HEA to allow certain students with a baccalaureate degree to receive a Federal Pell Grant while completing a teacher preparation program. As a result of this statutory change, these proposed regulations would amend the duration of the student eligibility provision of the Federal Pell Grant Program regulations. In addition, these proposed regulations would make corresponding changes to the eligible program provision in § 668.8(h) and the student eligibility provision in § 668.32(c) of the Student Assistance General Provisions regulations.

Conditions for Determining Eligibility

The 1998 Amendments provide that on a case-by-case basis, students enrolled in a postbaccalaureate teacher certificate or licensing program may be eligible to receive a Federal Pell Grant. To address this case-by-case determination, the Secretary and the Committee agreed to establish a set of conditions to be applied to each student enrolled in a postbaccalaureate teacher certificate or licensing program. Under the proposed regulations, if a student meets these conditions, and is otherwise eligible, he or she may receive a Federal Pell Grant. These conditions are discussed below and proposed in § 690.6(c).

To be eligible for a Federal Pell Grant, the 1998 Amendments require that an otherwise eligible student must be:

- Enrolled in a postbaccalaureate program that consists of courses required by a State to receive a professional certification or licensing credential necessary for employment as a teacher in an elementary or secondary school in that State;
- Enrolled in a postbaccalaureate program that does not lead to a graduate degree;

- Enrolled at a postsecondary institution that does not offer a baccalaureate degree in education; and
- Enrolled as at least a half-time student.

The 1998 Amendments do not address whether students seeking to renew their current teacher certification or licensure, or obtain a teacher certification or licensure in another subject matter, are eligible to receive a Federal Pell Grant. The Committee reached consensus regarding the scope of eligibility for a Federal Pell Grant under this provision; namely, to provide Federal Pell Grant funds to students seeking to obtain certification or licensure to begin teaching within a State. Thus, the proposed regulations limit Federal Pell Grant eligibility to only those students pursuing an initial teacher certification or licensing credential within a State.

The proposed regulations would also allow students enrolled in a postbaccalaureate teacher certificate or licensing program to be eligible to receive a Federal Pell Grant for the period of time necessary to complete the program.

Treatment of Students Enrolled in the Postbaccalaureate Program as Undergraduate Students Enrolled in an Undergraduate Program.

The 1998 Amendments do not address whether students enrolled in a postbaccalaureate teacher certificate or licensing program are enrolled in an undergraduate or graduate program. Historically, the Federal Pell Grant Program has been preserved as a source of financial assistance for undergraduate students enrolled in an undergraduate program. As previously discussed, the postbaccalaureate teacher certificate or licensing program is comparable to a baccalaureate program that incorporates teacher preparation into the fourth year of undergraduate study. For this reason, the Secretary and the Committee agreed that institutions must treat students who receive a Federal Pell Grant under this provision as undergraduate students enrolled in an undergraduate program.

Under these proposed regulations a student would be treated as an undergraduate student enrolled in an undergraduate program. Therefore, the student is not automatically independent for purposes of calculating the expected family contribution. Whether the student is dependent or independent, the student must maintain the same dependency status for all Title IV, student financial aid programs. Furthermore, the student is only eligible for fifth year undergraduate Perkins, FFEL, and Direct loan amounts.

Requirement to be a Regular Student in Order to Receive a Federal Pell Grant

The 1998 Amendments do not change the requirement that a Federal Pell Grant recipient must be a regular student. A regular student is a person who is enrolled in an eligible program for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by the institution. Therefore, the institution must provide a student enrolled in a postbaccalaureate teacher certificate or licensing program with a certificate or other recognized educational credential. This is true even if the State provides the student with a certificate upon completion of the postbaccalaureate program. For the purpose of this provision only, it is the view of the Secretary and the Committee agreed that an acceptable recognized educational credential may be an official transcript that documents the student's enrollment in or completion of a postbaccalaureate teacher certificate or licensing program.

Simultaneous Enrollment in Both the Postbaccalaureate Teacher Certificate or Licensing Program and a Graduate or Professional Degree Program

Neither the 1998 Amendments nor the proposed regulations in § 690.6 address simultaneous enrollment in both the postbaccalaureate program (as described here) and a graduate or professional degree program.

The Secretary and the Committee agreed to allow Pell Grant eligibility to a student who is enrolled in a postbaccalaureate program and a separate graduate or professional degree program. However, to be consistent with the proposed changes in § 690.6, the proposed regulations would require an institution to consider the following when determining a student's eligibility for a Federal Pell Grant:

- A student who is enrolled in a postbaccalaureate teacher certificate or licensing program and receives a Federal Pell Grant is treated as an undergraduate student enrolled in an undergraduate program. Thus, the student must be treated as an undergraduate student for the other Title IV programs; e.g., a student who receives a Federal Pell Grant is only eligible for fifth year undergraduate loan amounts;
- A student is not eligible for a Federal Pell Grant if he or she is solely enrolled in a graduate or professional degree program, even if the program's courses are the same as those required for the postbaccalaureate teacher certificate or licensing program;
- A student is not eligible for a Federal Pell Grant if his or her

enrollment status, based on the hours required for the postbaccalaureate teacher certificate or licensing program, is less than half-time; and

- Only those courses required for the postbaccalaureate teacher certificate or licensing program can be considered when determining the student's enrollment status.

Section 690.7 Institutional Participation

The 1998 Amendments provide that an institution is ineligible to participate in the Federal Pell Grant Program upon losing its eligibility to participate in the FFEL or Direct Loan programs because of its default rate. This provision is effective after the Secretary's final publication of the cohort default rates for fiscal year 1996. (These rates were published on October 26, 1998). This new provision, in section 401(j) of the HEA, applies to institutions participating in the FFEL or Direct Loan program on or after October 7, 1998. As a result of this statutory change, these regulations propose to amend § 690.7 to provide for this loss of eligibility to participate in the Federal Pell Grant Program. Specific information on the loss of eligibility is provided in proposed § 668.17(b)(4) in a recently published NPRM.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goals that (1) all children will start school ready to learn and that student achievement will be enhanced; (2) call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education and for supporting life-long learning; (3) every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship; and (4) the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century. The proposed regulations in § 675.18(g) would further

the objectives of these Goals by requiring FWS student participation in reading tutoring and in family literacy projects where the family is recognized as an institution for education and learning and the parent is recognized as their children's first teachers. The objectives of the Goals would also be addressed by the proposal to extend eligibility for Federal Pell Grants to those students who are pursuing a teacher certification or licensing credential through a State approved non-degree postbaccalaureate program.

Executive Order 12866:

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering these programs effectively and efficiently.

In assessing the potential costs and benefits of this regulatory action—both quantitative and qualitative—we have determined that the benefits would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We note that, as these proposed regulations were subject to negotiated rulemaking, the costs and benefits of the various requirements were discussed thoroughly by negotiators. The consensus reached on a particular requirement generally reflected agreement on the best possible approach to that requirement in terms of cost and benefit.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or to increase any potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the Title IV, HEA programs.

2. Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

We invite comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 668.8 *Eligible Program*.)
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the ADDRESSES section of the preamble.

Regulatory Flexibility Act Certification

We certify that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Entities affected by these regulations are institutions of higher education that participate in the Title IV, HEA programs. The institutions are defined as small entities, according to the U.S. Small Business Administration, if they are: for-profit or nonprofit entities with total revenue of \$5,000,000 or less; or entities controlled by governmental entities with populations of 50,000 or less. These proposed regulations would not impose a significant economic impact on a substantial number of small entities. The regulations would benefit both small and large institutions by providing additional flexibility in the administration of the Federal Pell Grant and Campus-Based programs without requiring significant changes to current institutional system operations. These proposed regulations would ease administrative burden and augment student benefits by: expanding Federal Pell Grant eligibility to allow students enrolled in a postbaccalaureate teacher certification or licensing program to receive a Federal Pell Grant; allowing an institution, upon request of a student, to make payments of FWS funds directly to the student's account at the institution; revising the definition of "resources" in the Campus-Based programs to maximize student benefits

and augment institutional flexibility in aid packaging; and implementing new carry-forward and carry-back authorities for the FSEOG Program.

We invite comments from small institutions as to whether the proposed changes would have a significant economic impact on them.

Paperwork Reduction Act of 1995

Proposed §§ 673.5, 675.10, 675.16, and 675.20 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review. *Collection of information: General Provisions for the Federal Perkins Loan, FWS, and FSEOG Programs—Section 673.5—Overaward—The Department currently has this section approved under OMB control number 1845–0535. We propose to change the definition of the term "resources" for a student who receives campus-based aid, a subsidized Stafford Loan or a Direct Subsidized Loan, and Montgomery GI Bill veterans educational benefits and/or an AmeriCorps education award paid for the cost of attendance. The institution would be able to exclude as a resource any portion of the subsidized loans that is equal to or less than the amount of the veterans education or AmeriCorps benefits received. This provision does not change the information collection contained in this section.*

Section 675.10—Selection of students for FWS employment—We propose under § 675.10(c) that if an institution's allocation of FWS funds is based in part on the financial need of students attending the institution as less-than-full-time or independent students, the institution must offer a reasonable portion of the allocation for FWS to those students. The requirement for offering 5 percent of the FWS allocation would be eliminated. This requirement does not change the information collection contained in this section regarding the maintaining of an institution's procedures for selecting students for FWS employment.

Section 675.16—Payments to students—We are proposing under § 675.16(a)(2) that before an institution pays FWS compensation to a student, the institution will be required to send the student a notice informing the student of the amount of funds he or she is eligible to earn, and how and when the FWS funds will be paid. To provide the student with this notice is standard institutional practice. The institutions that participate in the Title IV, HEA programs normally send this notice out

to all students that have applied to their school for Title IV, HEA funds. Students generally receive one notice listing all Title IV, HEA program funds they can expect to receive. FWS funds are earned compensation. Therefore, we have concluded that the requirement for the notice should be reiterated in § 675.16. There are 3,282 institutions of higher education currently participating in the FWS Program, with 747,913 total FWS recipients. We understand that the majority of these 747,913 FWS recipients receive some other type of Title IV, HEA program funds and that institutions are already providing FWS students this information along with information on other types of aid the student can expect to receive in one notice.

Subpart K of the Student Assistance General Provisions regulations (34 CFR Part 668) under the OMB control number 1845–0697 governs the cash management regulations as authorized by section 487 of the HEA. Amendments to this section were part of a Division-wide package—Cash Management/Easy Access for Students and Institutions (EASI)—intended to clarify and consolidate current policies and requirements, and make necessary changes in the regulatory framework for us to improve significantly the delivery of Title IV, HEA program funds to students and institutions. Burden hours for § 668.165(a)(1) were calculated and cleared under 1845–0697 to determine the cost to institutions for notifying students once an award year of: the amounts of Title IV, HEA program funds a student can expect to receive; how and when those funds will be paid; and, whether any Title IV, HEA program loans are subsidized or unsubsidized. There are 6,576 institutions sending this notice to 6,223,450 Title IV aid recipients with an average of 946.4 responses per institution. With each institution taking approximately five minutes to retrieve and mail the information the total average hour burden for each institution is calculated as 78.9 hours. Therefore, annual recordkeeping and reporting burden contained in this collection total 518,846.4 (6,576 respondents × 78.9 hours) hours. Any further calculation of burden hours for § 675.16 for providing a student a notice of the amount of FWS program funds he or she can expect to receive would duplicate hours already calculated for this procedure in § 668.165(a)(1) and cleared under OMB 1845–0697.

Section 675.16 also includes a proposal that upon the written request of a student, an institution may make payments of FWS funds directly to the

student's account at the institution for tuition and fees, room and board, and other institutional provided goods and services. This practice is prohibited by current regulations, so it is difficult to estimate an accurate number of respondents that would be submitting this request. Some institutions have informed the Department that they will not implement this procedure, but will continue to pay FWS students by check or electronic fund transfer to the student's bank account. Other institutions have expressed to the Department that the use of this procedure will be minimal at their institutions.

There are 3,282 institutions currently participating in the FWS Program. A total of 747,913 students receive FWS funds at these institutions. We estimate that 74,791 (10 percent of) respondents may sign a written request to have their FWS earnings credited to their account at an institution and that request will average 1 minute per response. Total annual burden hours for the respondents are estimated to be 1,247 hours. The annual recordkeeping burden hours for 3,282 institutions to obtain signatures and maintain a record of the request in their recordkeeping system are estimated to be 12,472 hours. Annual recordkeeping and reporting burden contained in this collection of information as proposed in these regulations are estimated to be 13,719 hours. The total annual recordkeeping and reporting burden hours for § 675.16 equals 13,963 hours.

Section 675.20—Eligible employers and general conditions and limitation on employment—We propose under § 675.20(d) to clarify that employment under the FWS Program may include internships, practicums, and research, teaching, or other assistantships as determined by the Secretary. This proposed change does not affect the information collection requirement in this section for a written agreement between the institution and the employer that is initiated as part of an institution's normal business practices.

If you want to comment on the information collection requirements please send your comments to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the ADDRESSES section of this preamble.

We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper

performance of our functions, including whether the information will have practical use;

- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review

The Federal Supplemental Educational Opportunity Grant program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

The Federal Work-Study and Federal Pell Grant programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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Catalog of Federal Domestic Assistance Numbers: 84.033 Federal Work-Study Program; 84.007 Federal Supplemental Educational Opportunity Grant Program; and 84.063 Federal Pell Grant Program)

List of Subjects

34 CFR Parts 668, 673, 674 and 675

Colleges and universities, Employment, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 676

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 690

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: July 27, 1999.

Richard W. Riley,

Secretary of Education.

For the reasons stated in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by amending Parts 668, 673, 674, 675, 676, and 690 as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.8 is amended by revising paragraph (h) to read as follows:

§ 668.8 Eligible program.

* * * * *

(h) *Eligibility for Federal Pell Grant and FSEOG programs.* In addition to satisfying other relevant provisions of this section—

(1) An educational program qualifies as an eligible program for purposes of the Federal Pell Grant Program only if the educational program is an undergraduate program or a postbaccalaureate teacher certificate or licensing program as described in 34 CFR 690.6(c); and

(2) An educational program qualifies as an eligible program for purposes of the FSEOG Program only if the educational program is an undergraduate program.

* * * * *
3. Section 668.32 is amended by revising paragraph (c) to read as follows:

§ 668.32 Student eligibility—general.

* * * * *
(c)(1) For purposes of the FSEOG Program, does not have a baccalaureate or first professional degree;

(2) For purposes of the Federal Pell Grant Program—

- (i) Does not have a baccalaureate or first professional degree; or
- (ii) Is enrolled in a postbaccalaureate teacher certificate or licensing program as described in 34 CFR 690.6(c); and
- (iii) Is not incarcerated in a Federal or State penal institution; and

(3) For purposes of the Federal Perkins Loan, FFEL, and Direct Loan programs, is not incarcerated;

* * * * *

4. Section 668.161 is amended by revising paragraph (a)(4) to read as follows:

§ 668.161 Scope and purpose.

(a) * * *
(4) *FWS Program*. An institution must follow the disbursement procedures in 34 CFR 675.16 for paying a student his or her wages under the FWS Program instead of the disbursement procedures in 34 CFR 668.164 and 668.165.

* * * * *

PART 673—GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

5. The authority citation for part 673 continues to read as follows:

Authority: 20 U.S.C 421–429, 1070b–1070b–3, and 1087aa–1087ii; 42 U.S.C. 2751–2756b, unless otherwise noted.

6. Section 673.5 is amended by revising paragraph (c)(1) introductory text and paragraph (c)(1)(ix); by redesignating paragraphs (c)(1)(x) and (c)(1)(xi) as paragraphs (c)(1)(xi) and (c)(1)(xii), respectively; and by adding new paragraphs (c)(1)(x) and (c)(4) to read as follows:

§ 673.5 Overaward.

* * * * *

(c) *Resources*. (1) Except as provided in paragraphs (c)(2), (c)(3), and (c)(4) of this section, the Secretary considers that “resources” include, but are not limited to, any—

* * * * *

(ix) Veterans educational benefits paid under Chapters 30, 31, 32, and 35 of title 38 of the United States Code;

(x) National service education awards or post-service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps);

* * * * *

(4) The institution may exclude as a resource any portion of a Federal Direct Stafford/Ford Loan and subsidized Federal Stafford Loan that is equal to or less than the amount of a student’s veterans education benefits paid under Chapter 30 of title 38 of the United States Code (Montgomery GI Bill) and national service education awards or post service benefits paid for the cost of attendance under title I of the National and Community Service Act of 1990 (AmeriCorps).

* * * * *

PART 674—FEDERAL PERKINS LOAN PROGRAM

7. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa-1087ii and 20 U.S.C. 421–429, unless otherwise noted.

8. Section 674.10 is amended by revising paragraph (b) to read as follows:

§ 674.10 Selection of students for loans.

* * * * *

(b) If an institution’s allocation of Federal Capital Contribution is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the dollar amount of loans made under this part must be offered to those students.

* * * * *

PART 675—FEDERAL WORK-STUDY PROGRAMS

9. The authority citation for part 675 is revised to read as follows:

Authority: 42 U.S.C. 2751–2756b, unless otherwise noted.

10. In § 675.2 paragraph (b) is amended by revising paragraphs (1) and (3) of the definition of “community services” to read as follows:

§ 675.2 Definitions.

* * * * *

(b) * * *

(1) Such fields as health care, child care (including child care services provided on campus that are open and accessible to the community), literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;

* * * * *

(3) Support services to students with disabilities, including students with disabilities who are enrolled at the institution; and

* * * * *

§ 675.8 [Amended]

11. Section 675.8 is amended by removing paragraph (d), and redesignating paragraphs (e), (f), and (g) as paragraphs (d), (e), and (f), respectively.

12. Section 675.10 is amended by revising paragraph (c) to read as follows:

§ 675.10 Selection of students for FWS employment.

* * * * *

(c) *Part-time and independent students*. If an institution’s allocation of FWS funds is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the allocation must be offered to those students.

13. Section 675.16 is amended to read as follows by:

A. Redesignating paragraphs (a)(2), (a)(3), and (a)(4), as paragraphs (a)(9), (a)(10), and (a)(11), respectively;

B. Revising paragraph (a)(1) and adding new paragraphs (a)(2) through (a)(8);

C. In newly redesignated paragraph (a)(10) by removing “wages are” and adding, in its place, “compensation is”;

D. In newly redesignated paragraph (a)(11) by removing “wages” and adding, in its place, “compensation”;

E. Revising paragraph (b)(1); and

F. In paragraphs (b)(2), (b)(3), and (c), removing “shall” and adding, in its place, “must”.

§ 675.16 Payments to students.

(a)(1) An institution must pay a student FWS compensation at least once a month.

(2) Before an institution makes an initial disbursement of FWS compensation to a student for an award period, the institution must notify the student of the amount of funds the student is authorized to earn, and how

and when the FWS compensation will be paid.

(3) An institution must pay FWS compensation to a student by—

(i) Check or similar instrument that the student can cash on his or her own endorsement;

(ii) Initiating an electronic funds transfer (EFT) to a bank account designated by the student after obtaining the authorization described in paragraph (a)(4)(i) of this section;

(iii) Crediting the student's account at the institution after obtaining the authorization described in paragraph (a)(4)(i) of this section. The institution may only credit the student's account at the institution to satisfy current award year charges for—

(A) Tuition and fees;

(B) Board, if the student contracts with the institution for board;

(C) Room, if the student contracts with the institution for room; and

(D) Other institutionally provided educationally related goods and services; or

(iv) Crediting the student's account at the institution to satisfy minor prior award year authorized charges if these charges are less than \$100 or if the payment of these charges does not, and will not, prevent the student from paying his or her current educational costs after obtaining the authorization described in paragraph (a)(4)(i) of this section.

(4)(i) Except for the noncash contributions allowed under paragraphs (b)(2) and (b)(3) of this section, an institution must obtain a separate written authorization from the student if the student is paid FWS compensation by—

(A) Crediting the student's account at the institution; or

(B) Initiating an EFT to a bank account designated by the student.

(ii) If an institution obtains a written authorization from the student, the institution may hold excess FWS funds under paragraph (a)(8) of this section.

(iii) The institution must obtain and use the written authorization in accordance with the requirements of paragraphs (a)(5) and (a)(6) of this section.

(5) In obtaining the student's written authorization described in paragraph (a)(4) of this section, an institution—

(i) May not require or coerce the student to provide that authorization;

(ii) Must allow the student to cancel or modify that authorization at any time; and

(iii) Must clearly explain how it will carry out that activity.

(6)(i) If a student modifies the written authorization described in paragraph

(a)(4) of this section, the modification takes effect on the date the institution receives the modification notice.

(ii) If a student cancels the written authorization described in paragraph (a)(4)(i)(A) of this section, the institution may use the FWS compensation to pay only those authorized charges incurred by the student before the institution received the notice.

(7) If an institution pays a student FWS compensation by crediting the student's account, and the result is a credit balance, the institution must pay the credit balance directly to the student as soon as possible but no later than 14 days after the balance occurred on the account.

(8) Except if prohibited by the Secretary under the reimbursement payment method, an institution may hold, on behalf of the student, FWS funds that would otherwise be paid directly to the student under paragraph (a)(7) of this section, if the institution obtains the authorization described in paragraph (a)(4)(ii) of this section. If an institution holds excess FWS funds, the institution must—

(i) Identify the amount of FWS funds the institution holds for each student in a subsidiary ledger account designated for that purpose;

(ii) Maintain, at all times, cash in its bank account in an amount at least equal to the amount of FWS funds the institution holds for the student; and

(iii) Pay any remaining balance by the end of the institution's final FWS payroll period for an award period.

* * * * *

(b)(1) Except for the noncash contributions allowed under paragraphs (b)(2) or (b)(3) of this section, an institution must pay the student its share of his or her FWS compensation at the same time it pays the Federal share.

* * * * *

14. Section 675.18 is amended as follows by:

A. Revising paragraph (a)(2);

B. In paragraph (f), removing, "May 15" and adding, in its place, "May 1";

C. Revising paragraphs (g)(1) and (g)(2); and adding new paragraphs (g)(3) and (h).

§ 675.18 Use of funds.

(a) * * *

(2) Paying administrative expenses as provided for in 34 CFR 673.7;

* * * * *

(g) *Community service.* (1) For the 2000–2001 award year and subsequent award years, an institution must use at least seven percent of the sum of its initial and supplemental FWS

allocations for an award year to compensate students employed in community service activities. In meeting this community service requirement, an institution must include at least one—

(i) Reading tutoring project that employs one or more FWS students as reading tutors for children who are preschool age or are in elementary school; or

(ii) Family literacy project that employs one or more FWS students in family literacy activities.

(2) The Secretary may waive the requirements in paragraph (g)(1) of this section if the Secretary determines that an institution has demonstrated that enforcing the requirements in paragraph (g)(1) of this section would cause a hardship for students at the institution.

(3) To the extent practicable, in providing reading tutors for children under paragraph (g)(1)(i), an institution must—

(i) Give priority to the employment of students to tutor in reading in schools that are participating in a reading reform project that—

(A) Is designed to train teachers how to teach reading on the basis of scientifically-based research on reading; and

(B) Is funded under the Elementary and Secondary Education Act of 1965; and

(ii) Ensure that any student who is employed in a school participating in a reading reform project described in paragraph (g)(3)(i) of this section receives training from the employing school in the instructional practices used by the school.

(h)(1) *Payment for time spent in training and travel.* For any award year, an institution may pay students for a reasonable amount of time spent for training that is directly related to FWS employment.

(2) Beginning with the 1999–2000 award year, an institution may pay students for a reasonable amount of time spent for travel that is directly related to employment in community service activities (including tutoring in reading and family literacy activities).

15. Section 675.20 is amended by adding a new paragraph (d) to read as follows:

§ 675.20 Eligible employers and general conditions and limitation on employment.

* * * * *

(d) *Academic credit and work-study.* (1) A student may be employed under the FWS program and also receive academic credit for the work performed. Such jobs include, but are not limited to, work performed when the student is—

- (i) Enrolled in an internship;
- (ii) Enrolled in a practicum; or
- (iii) Employed in a research, teaching, or other assistantship.

(2) A student employed in an FWS job and receiving academic credit for that job may not be—

- (i) Paid less than he or she would be if no academic credit were received;
- (ii) Paid for receiving instruction in a classroom, laboratory, or other academic setting; and
- (iii) Paid unless the employer would normally pay the person for the same position.

16. Section 675.23 is amended by revising paragraph (b)(1) to read as follows:

§ 675.23 Employment provided by a private for-profit organization.

* * * * *

- (b) * * *
 - (1) The work that the student performs must be academically relevant to the student's educational program, to the maximum extent practicable; and

* * * * *

17. Section 675.26 is amended by revising paragraph (a)(1), by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(3) and (a)(4), by adding a new paragraph (a)(2), and by revising paragraph (d)(2)(iii) to read as follows:

§ 675.26 FWS Federal share limitations.

(a)(1) The Federal share of FWS compensation paid to a student employed other than by a private for-profit organization, as described in § 675.23, may not exceed 75 percent unless the Secretary approves a higher share under paragraph (a)(2) or (d) of this section.

(2) The Federal share of the compensation paid to a student may exceed 75 percent, but may not exceed 90 percent, if—

- (i) The student is employed at a private nonprofit organization or a Federal, State, or local public agency that—

(A) Is not a part of, and is not owned, operated, or controlled by, or under common ownership, operation, or control with, the institution;

(B) Is selected by the institution on an individual case-by-case basis;

(C) Would otherwise be unable to afford the costs of this employment; and

(ii) The number of students compensated under paragraph (a)(2)(i) of this section is not more than 10 percent of the total number of students paid under the FWS Program at the institution.

* * * * *

- (d) * * *

(2) * * *

(iii) The student is employed in a family literacy project that provides services to families with preschool age children or children who are in elementary school; or

* * * * *

Subpart C—Work-Colleges Program

18. Section 675.45 is amended by adding new paragraphs (a)(5) and (a)(6) to read as follows:

§ 675.45 Allowable costs, Federal share, and institutional share.

(a) * * *

(5) Coordinate and carry out joint projects and activities to promote work service learning.

(6) Carry out a comprehensive, longitudinal study of student academic progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation.

* * * * *

PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

19. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

20. Section 676.10 is amended by revising paragraph (b) to read as follows:

§ 676.10 Selection of students for FSEOG awards.

* * * * *

(b) *Part-time and independent students.* If an institution's allocation of FSEOG funds is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the allocation must be offered to those students.

21. Section 676.18 is amended by revising paragraph (a)(2), and adding new paragraphs (c), (d), (e) and (f) to read as follows:

§ 676.18 Use of funds.

(a) * * *

(2) Paying administrative expenses as provided for in 34 CFR 673.7.

* * * * *

(c) *Carry forward funds.* (1) An institution may carry forward and expend in the next award year up to 10 percent of the sum of its initial and

supplemental FSEOG allocations for the current award year.

(2) Before an institution may spend its current year FSEOG allocation, it must spend any funds carried forward from the previous year.

(d) *Carry back funds.* An institution may carry back and expend in the previous award year up to 10 percent of the sum of its initial and supplemental FSEOG allocations for the current award year. The institution's official allocation letter represents the Secretary's approval to carry back funds.

(e) *Use of funds carried forward and carried back.* An institution may use the funds carried forward or carried back under paragraphs (c) and (d) of this section, respectively, for activities described in paragraph (a) of this section.

(f) *Carry back funds for summer FSEOG awards.* An institution may carry back and expend in the previous award year any portion of its initial and supplemental FSEOG allocations for the current award year to make awards to eligible students for payment periods that begin on or after May 1 of the previous award year but end prior to the beginning of the current award year.

PART 690—FEDERAL PELL GRANT PROGRAM

22. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

23. Section 690.6 is amended by revising the heading and paragraph (a), and adding new paragraphs (c) and (d) to read as follows:

§ 690.6 Duration of student eligibility—undergraduate course of study and eligible postbaccalaureate program.

(a) Except as provided in paragraphs (c) and (d) of this section, a student is eligible to receive a Federal Pell Grant for the period of time required to complete his or her first undergraduate baccalaureate course of study.

* * * * *

(c) An otherwise eligible student who has a baccalaureate degree and is enrolled in a postbaccalaureate program is eligible to receive a Federal Pell Grant for the period of time necessary to complete the program if—

(1) The postbaccalaureate program consists of courses that are required by a State for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary or secondary school in that State;

(2) The postbaccalaureate program does not lead to a graduate degree;

(3) The institution offering the postbaccalaureate program does not also offer a baccalaureate degree in education;

(4) The student is enrolled as at least a half-time student; and

(5) The student is pursuing an initial teacher certification or licensing credential within a State.

(d) An institution must treat a student who receives a Federal Pell Grant under

paragraph (c) of this section as an undergraduate student enrolled in an undergraduate program for title IV purposes.

24. In § 690.7 paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 690.7 Institutional participation.

* * * * *

(c)(1) If an institution loses its eligibility to participate in the FFEL or

Direct Loan program under the provisions of 34 CFR 668.17, it also loses its eligibility to participate in the Federal Pell Grant Program for the same period of time.

(2) That loss of eligibility must be in accordance with the provisions of 34 CFR 668.17(b).

* * * * *

[FR Doc. 99-19724 Filed 8-2-99; 8:45 am]

BILLING CODE 4000-01-U