

**APPENDIX A - GAP Draft Proposed Regulations**

**Subpart B—Special Leveraging Educational Assistance Partnership Program**

§692.70 How does the Secretary allot fund to the States?

For ~~each~~-fiscal year 2010-2011, the Secretary allots to each eligible State that applies for SLEAP funds an amount in accordance with the provisions in §692.10 ~~prior to calculating allotments for States applying for GAP funds under subpart C of this part.~~

**Subpart C—Grants for Access and Persistence Program**

**General**

§692.90 What is the Grants for Access and Persistence Program?

The Grants for Access and Persistence (GAP) Program assists States in establishing partnerships to provide eligible students with LEAP Grants under GAP to attend institutions of higher education and to encourage increased participation in early information and intervention, mentoring, or outreach programs.

§692.91 What other regulations apply to the GAP Program?

The regulations listed in §692.3 also apply to the GAP Program.

§692.92 What definitions apply to the GAP Program?

The definitions listed in §692.4 also apply to the GAP Program.

§692.93 Who is eligible to participate in the GAP Program?

(a) States. States that meet the requirements in §§692.94 and 692.100 are eligible to receive payments under the GAP Program.

(b) Degree-granting institutions of higher education.

Degree-granting institutions of higher education that meet the requirements in §692.101 are eligible to participate in a partnership under the GAP Program.

(c) Early information and intervention, mentoring, or outreach programs. Early information and intervention, mentoring, or outreach programs that meet the requirements in §692.101 are eligible to participate in a partnership under the GAP Program.

(d) Philanthropic organizations or private corporations. Philanthropic organizations or private corporations that meet the requirements in §692.101 are eligible to participate in a partnership under the GAP Program.

(e) Students. Students who meet the requirements of §692.120 are eligible to receive assistance or services from a partnership under the GAP Program.

§692.94 What requirements must a State satisfy, as the administrator of a partnership, to receive GAP Program funds?

To receive GAP Program funds for any fiscal year–

(a) A State must–

(1) Participate in the LEAP Program;

(2) Establish a State partnership with–

(i) At least one public and one private degree-granting institution of higher education that is located in the State;

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

(iii) At least one philanthropic organization located in, or that provides funding in, the State, or private corporation located in, or that does business in, the State;

(3) Meet the requirements in §692.100; and

(4) Have a program under this subpart that satisfies the requirements in §692.21(a), (e), (f), (g), and (j).

(b) A State may provide an early information and intervention, mentoring, or outreach program under paragraph (a)(2)(ii) of this section.

**How Does a State Apply to Participate in GAP?**

§692.100 What requirements must a State meet to receive an allotment under this program?

For a State to receive an allotment under the GAP Program, the State agency that administers the State's LEAP Program under subpart A of this part must--

(a) Submit an application on behalf of a partnership in accordance with the provisions in §692.20 at such time, in such manner, and containing such information as the Secretary may require including--

(1) A description of--

(i) The State's plan for using the Federal funds allotted under this subpart and the non-Federal matching funds; and

(ii) The methods by which matching funds will be paid;

(2) An assurance that the State will provide matching funds in accordance with §692.113;

(3) An assurance that the State will use Federal GAP funds to supplement, and not supplant, Federal and State funds

available for carrying out the activities under Title IV of the HEA;

(4) An assurance that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make these programs widely available;

(5) A description of the organizational structure that the State has in place to administer the program, including a description of how the State will compile information on degree completion of students receiving grants under this subpart;

(6) A description of the steps the State will take to ensure that students who receive a LEAP Grant under GAP persist to degree completion;

(7) An assurance that the State has a method in place, such as acceptance of the automatic zero expected family contribution under section 479(c) of the HEA, to identify eligible students and award LEAP Grants under GAP to such students;

(8) An assurance that the State will provide notification to eligible students that grants under this subpart are LEAP Grants and are funded by the Federal Government and the State, and, where applicable, other contributing partners.

(b) Serve as the primary administrative unit for the partnership;

(c) Provide or coordinate non-Federal share funds, and coordinate activities among partners;

(d) Encourage each institution of higher education in the State that participates in the State's LEAP Program under subpart A of this part to participate in the partnership;

(e) Make determinations and early notifications of assistance;

(f) Ensure that the non-Federal funds used as matching funds represent dollars that are in excess of the total dollars that a State spent for need-based grants, scholarships, and work-study assistance for fiscal year 1999, including the State funds reported for the programs under this part;

(g) Provide an assurance that, for the fiscal year prior to the fiscal year for which the State is requesting Federal funds, the amount the State expended from non-Federal sources per student, or the aggregate amount the State expended, for all the authorized activities in §692.111 will be no less than the amount the State expended from non-Federal sources per student, or in the aggregate, for those activities for the second fiscal year prior to the fiscal year for which the State is requesting Federal funds; and

(h) Provide for reports to the Secretary that are necessary to carry out the Secretary's functions under the GAP Program.

§692.101 What requirements must be met by a State partnership?

(a) State. A State that is in a partnership receiving an allotment under this subpart shall meet the requirements under §§692.94 and 692.100.

(b) Degree-granting institution of higher education. A degree-granting institution of higher education that is in a partnership receiving an allotment under this subpart--

(1) Must participate in the State's LEAP Program under subpart A of this part;

(2) Must recruit and admit participating eligible students and provide additional institutional grant aid as agreed to with the State agency;

(3) Must provide support services to students who receive LEAP Grants under GAP and are enrolled at the institution;

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

(5) May provide funding or services for early information and intervention, mentoring, or outreach programs.

(c) Early information and intervention, mentoring, or outreach program. An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this subpart shall provide direct services, support, and information to participating students.

(d) Philanthropic organization or private corporation. A philanthropic organization or private corporation shall provide funds for LEAP Grants under GAP for participating students or provide funds or support for early information and intervention, mentoring, or outreach programs.

**What Is the Amount of Assistance and How May It Be Used?**

§692.110 How does the Secretary allot funds to the States?

(a) (1) The Secretary allots to each State participating in the GAP Program an amount of the funds available for the GAP Program based on the ratio used to allot the State's Federal LEAP funds under §692.10(a).

(2) If a State meets the requirements of §692.113(b) for a fiscal year, the number of students under §692.10(a) for the

State is increased by 125 percent in determining the ratio in paragraph (a) of this section for that fiscal year.

(3) Notwithstanding paragraph (a) (1) and (2) of this section--

(i) If the Federal GAP funds available from the appropriation for a fiscal year are sufficient to allot to each State that participated in the prior year the same amount of Federal GAP funds allotted in the prior fiscal year, but are not sufficient both to allot same amount of Federal GAP funds allotted in the prior fiscal year to these States and also to allot additional funds to additional States in accordance with the ratio used to allot the States' Federal LEAP funds under §692.10(a), the Secretary allots--

(A) To each State that participated in the prior year, the amount the State received in the prior year; and

(B) To each State that did not participate in the prior year, an amount of Federal GAP funds available to States based on the ratio used to allot the State's Federal LEAP funds under §692.10(a); and

(ii) If the Federal GAP funds available from the appropriation for a fiscal year are not sufficient to allot to each State that participated in the prior year at least the amount of Federal GAP funds allotted in the prior fiscal year, the Secretary allots to each State an amount which bears the same ratio to the amount of Federal GAP funds available as the amount of Federal GAP funds allotted to each State in the prior fiscal year bears to the amount of Federal GAP funds allotted to all States in the prior fiscal year.

(b) The Secretary allots funds available for reallocation in a fiscal year in accordance with the provisions of paragraph

(a) of this section used to calculate initial allotments for the fiscal year.

(c) Any funds made available for the program under this subpart but not expended may be allotted or reallocated for the program under subpart A.

§692.111 For what purposes may a State use its payment under the GAP Program?

(a) Establishment of a partnership. Each State receiving an allotment under this subpart shall use the funds to establish a partnership to award grants to eligible students in order to increase the amount of financial assistance students receive under this subpart for undergraduate education expenses.

(b) Amount of LEAP Grants under GAP. (1) The amount of a LEAP Grant under GAP by a State to an eligible student shall be not less than--

(i) The average undergraduate tuition and mandatory fees for full-time students at the public institutions of higher education in the State where the student resides that are the same type of institution that the student attends (four-year degree-granting, two-year degree-granting, or non-degree-granting); minus

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

(2) The Secretary determines the average undergraduate tuition and mandatory fees for full-time students at public institutions in a State weighted by enrollment using the most recent data reported by institutions in the State to the Integrated Postsecondary Education Data System (IPEDS) administered by the National Center for Educational Statistics.



(c) Institutional participation. (1) A State receiving an allotment under this subpart may restrict the use of LEAP Grants under GAP only to students attending institutions of higher education that are participating in the partnership.

(2) If a State provides LEAP Grants under subpart A to students attending institutions of higher education located in another State, LEAP Grants under GAP may be used at institutions of higher education located in another State.

(d) Early notification to eligible students. (1) Each State receiving an allotment under this subpart shall annually notify eligible students in grades 7 through 12 in the State, and their families, of their potential eligibility for student financial assistance, including a LEAP Grant under GAP, to attend a LEAP-participating institution of higher education.

(2) The notice shall include--

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

(ii) Information that a student's eligibility for a LEAP Grant under GAP is enhanced through participation in an early information and intervention, mentoring, or outreach program;

(iii) An explanation that student and family eligibility for, and participation in, other Federal means-tested programs may indicate eligibility for a LEAP Grant under GAP and other student aid programs;

(iv) A nonbinding estimate of the total amount of financial aid that an eligible student with a similar income level may expect to receive, including an estimate of the amount of a LEAP Grant under GAP and an estimate of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

(v) An explanation that in order to be eligible for a LEAP Grant under GAP, at a minimum, a student shall–

(A) Meet the eligibility requirements under §692.120;

(B) Enroll at a LEAP-participating institution of higher education in the State of the student’s residence or an out-of-state institution if the State elects to make LEAP Grants under GAP for attendance at out-of-State institutions in accordance with paragraph (c) (2) of this section;

(vi) Any additional requirements that the State may require for receipt of a LEAP Grant under GAP; and

(vii) An explanation that a student is required to file a Free Application for Federal Student Aid to determine his or her eligibility for Federal and State financial assistance and may include a provision that eligibility for an award is subject to change based on--

(A) A determination of the student’s financial eligibility at the time of the student’s enrollment at a LEAP-participating institution of higher education or an out-of-State institution in accordance with paragraph (c) (2) of this section;

(B) Annual Federal and State spending for higher education; and

(C) Other aid received by the student at the time of the student’s enrollment at the institution of higher education.

(e) Award notification. (1) Once a student, including a student who has received early notification under paragraph (d) of this section, applies for admission to an institution that is a partner in the partnership of the State of the student’s residence, files a Free Application for Federal Student Aid and

any related State form, and is determined eligible by the State, the State shall--

(i) Issue the student a preliminary award certificate for a LEAP Grant under GAP with estimated award amounts; and

(ii) Inform the student that the payment of the grant is subject to certification of enrollment and eligibility by the institution.

(2) If a student enrolls in an institution that is not a partner in the partnership of the student's State of residence but the State has not restricted eligibility to students enrolling in partner institutions, including, if applicable, out-of-State institutions, the State shall, to the extent practicable, follow the procedures of paragraph (e)(1) of this section.

§692.112 May a State use the funds it receives from the GAP Program to pay administrative costs?

(a) A State that receives an allotment under this subpart may reserve not more than two (2) percent of the funds made available annually for State administrative functions required for administering the partnership and other program activities.

(b) A State must use not less than ninety-eight (98) percent of an allotment under this subpart to make LEAP Grants under GAP.

§692.113 What are the matching requirements for a GAP Partnership?

(a) The matching funds of a partnership--

(1) Shall be funds used for making LEAP Grants to eligible students under this subpart;

(2) May be--

(i) Cash; or

(ii) A noncash, in-kind contribution that--

(A) Is fairly evaluated;

(B) Has monetary value, such as a tuition waiver or provision of room and board, or transportation; and

(C) Helps a student meet the cost of attendance at an institution of higher education; and

(3) May be funds from partners used to make LEAP Grants GAP that match State funds.

(b) A State match of the Federal allotment shall be--

(1) Forty-three (43) percent of the expenditures under this subpart if a State applies for a GAP allotment in partnership with--

(i) Any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State as determined by the Secretary using the most recently available data from IPEDS; and

(ii) One or both of the following--

(A) Philanthropic organizations that are located in, or that provide funding in, the State; or

(B) Private corporations that are located in, or that do business in, the State.

(2) Thirty-three and thirty-four one-hundredths (33.34) percent of the expenditures under this subpart if a State applies for a GAP allotment in partnership with--

(i) Any number of degree-granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State as determined by the Secretary using the most recently available data from IPEDS; and

(ii) One or both of the following--

(A) Philanthropic organizations that are located in, or that provide funding in, the State; or

(B) Private corporations that are located in, or that do business in, the State.

(c) Nothing in this part shall be interpreted as limiting a State or other member of a partnership from expending funds to support the activities of a partnership under this subpart that are in addition to the funds matching the Federal allotment.

**How Does the Partnership Select Students under the GAP Program?**

§692.120 What are the requirements for student eligibility?

(a) Eligibility. A student is eligible to receive a LEAP Grant under GAP if the student--

(1) Meets the relevant eligibility requirements contained in 34 CFR 668.32;

(2) Has graduated from secondary school or, for a home-schooled student, has completed a secondary education; and

(3) (i) Meets at least two of the following criteria--

(A) As designated by the State, either has an EFC equal to zero, as determined under part F of the HEA, or a comparable alternative based on the State's approved criteria for the LEAP Program under subpart A of this part;

(B) Qualifies for the State’s maximum undergraduate award for LEAP Grants under subpart A of this part in the award year in which the student is receiving an additional LEAP Grant under GAP; or

(C) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as determined by the State agency administering the programs under this part; or

(ii) Has received, or is receiving, a LEAP Grant under GAP for each year the student remains eligible for assistance under this subpart.

(b) Priority. In awarding LEAP Grants under GAP, a State shall give priority to students meeting all the criteria in paragraph (a) (3) (i) of this section.

(c) Duration of eligibility. (1) A student may receive a LEAP Grant under GAP if the student continues to demonstrate that he or she is financially eligible by meeting the provisions of paragraph (a) (3) (i) (A) or (B).

(2) A State may impose reasonable time limits to degree completion.

**How Does the Secretary Approve a Waiver of Program Requirements?**

§692.130 How does a participating institution request a waiver of program requirements?

(a) The Secretary may grant, upon the request of an institution participating in a partnership, a waiver for the institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

(b) An institution must submit a request for a waiver through the State agency administering the partnership.

(c) The State agency must forward to the Secretary, in a timely manner, the request made by the institution and may include any additional information or recommendations that it deems appropriate for the Secretary's consideration.