

student in that year of comparable institutions that offer similar instruction.

(2) For the purpose of paragraph (a)(1) of this section, the Secretary determines the average educational and general expenditure per full-time equivalent undergraduate student for institutions with graduate students that do not differentiate between graduate and undergraduate educational and general expenditures by discounting the graduate enrollment using a factor of 2.5 times the number of graduate students.

(b) Each year, the Secretary notifies prospective applicants through a notice in the FEDERAL REGISTER of the average educational and general expenditures per full-time equivalent undergraduate student at comparable institutions that offer similar instruction.

(c) The Secretary may waive the requirement contained in paragraph (a) of this section, if the Secretary determines, based upon persuasive evidence provided by the institution, that—

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

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

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

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

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

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

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

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

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

(3) Information or explanations justifying any requested waiver.

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

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

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

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

**§ 606.6 What regulations apply?**

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

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

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

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

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

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

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

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

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

(b) The regulations in this part 606.

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

**§ 606.7 What definitions apply?**

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

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

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

*Accredited* means the status of public recognition which a nationally recognized accrediting agency or association grants to an institution which meets certain established qualifications and educational standards.

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

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

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

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

*Comparable institutions that offer similar instruction* means institutions that

are being compared with an applicant institution and that fall within one of the following four categories—

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

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

*Degree student* means a student who enrolls at an institution for the purpose of obtaining the degree, certificate, or other recognized educational credential offered by that institution.

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

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

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

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