

§ 668.232

(iii) Taking non-credit-bearing, non-degree courses with students without disabilities.

(iv) Participating in internships or work-based training in settings with individuals without disabilities; and

(6) Provides students with intellectual disabilities opportunities to participate in coursework and other activities with students without disabilities.

(b) *Student with an intellectual disability* means a student—

(1) With a cognitive impairment characterized by significant limitations in—

(i) Intellectual and cognitive functioning; and

(ii) Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(2) Who is currently, or was formerly, eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401), including a student who was determined eligible for special education or related services under the IDEA but was home-schooled or attended private school.

[74 FR 55947, Oct. 29, 2009, as amended at 82 FR 31913, July 11, 2017]

§ 668.232 Program eligibility.

An institution that offers a comprehensive transition and postsecondary program must apply to the Secretary to have the program determined to be an eligible program. The institution applies under the provisions in 34 CFR 600.20 for adding an educational program, and must include in its application—

(a) A detailed description of the comprehensive transition and postsecondary program that addresses all of the components of the program, as defined in § 668.231;

(b) The institution's policy for determining whether a student enrolled in the program is making satisfactory academic progress;

(c) The number of weeks of instructional time and the number of semester or quarter credit hours or clock hours in the program, including the equivalent credit or clock hours associated with noncredit or reduced credit courses or activities;

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(d) A description of the educational credential offered (*e.g.*, degree or certificate) or identified outcome or outcomes established by the institution for all students enrolled in the program;

(e) A copy of the letter or notice sent to the institution's accrediting agency informing the agency of its comprehensive transition and postsecondary program. The letter or notice must include a description of the items in paragraphs (a) through (d) of this section; and

(f) Any other information the Secretary may require.

(Approved by the Office of Management and Budget under control number 1845–NEW4)

(Authority: 20 U.S.C. 1091)

§ 668.233 Student eligibility.

A student with an intellectual disability is eligible to receive Federal Pell, FSEOG, and FWS program assistance under this subpart if—

(a) The student satisfies the general student eligibility requirements under § 668.32, except for the requirements in paragraphs (a), (e), and (f) of that section. With regard to these exceptions, a student—

(1) Does not have to be enrolled for the purpose of obtaining a degree or certificate;

(2) Is not required to have a high school diploma, a recognized equivalent of a high school diploma, or have passed an ability to benefit test; and

(3) Is making satisfactory progress according to the institution's published standards for students enrolled in its comprehensive transition and postsecondary programs;

(b) The student is enrolled in a comprehensive transition and postsecondary program approved by the Secretary; and

(c) The institution obtains a record from a local educational agency that the student is or was eligible for special education and related services under the IDEA. If that record does not identify the student as having an intellectual disability, as described in paragraph (1) of the definition of a student with an intellectual disability in § 668.231, the institution must also obtain documentation establishing that

the student has an intellectual disability, such as—

(1) A documented comprehensive and individualized psycho-educational evaluation and diagnosis of an intellectual disability by a psychologist or other qualified professional; or

(2) A record of the disability from a local or State educational agency, or government agency, such as the Social Security Administration or a vocational rehabilitation agency, that identifies the intellectual disability.

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Subpart P—Prison Education Programs

SOURCE: 87 FR 65495, Oct. 28, 2022, unless otherwise noted.

§ 668.234 Scope and purpose.

This subpart establishes regulations that apply to an institution that offers prison education programs to confined or incarcerated individuals. A confined or incarcerated individual enrolled in an eligible prison education program is eligible for Federal financial assistance under the Federal Pell Grant program. Unless provided in this subpart, confined or incarcerated individuals and institutions that offer prison education programs are subject to the same regulations and procedures that otherwise apply to title IV, HEA program participants.

§ 668.235 Definitions.

The following definitions apply to this subpart:

Additional location has the meaning given in 34 CFR 600.2.

Advisory committee is a group established by the oversight entity that provides nonbinding feedback to the oversight entity regarding the approval and operation of a prison education program within the oversight entity's jurisdiction.

Confined or incarcerated individual has the meaning given in 34 CFR 600.2.

Feedback process is the process developed by the oversight entity to gather nonbinding input from relevant stakeholders regarding the approval and op-

eration of a prison education program within the oversight entity's jurisdiction. A feedback process may include an advisory committee.

Oversight entity means—

(1) The appropriate State department of corrections or other entity that is responsible for overseeing correctional facilities; or

(2) The Federal Bureau of Prisons.

Relevant stakeholders are individuals and organizations that provide input as part of a feedback process to the oversight entity regarding the approval and operation of a prison education program within the oversight entity's jurisdiction. These stakeholders must include representatives of confined or incarcerated individuals, organizations representing confined or incarcerated individuals, State higher education executive offices, and accrediting agencies and may include additional stakeholders as determined by the oversight entity.

§ 668.236 Eligible prison education program.

(a) An *eligible prison education program* means an education or training program that—

(1) Is an eligible program under § 668.8 offered by an institution of higher education as defined in 34 CFR 600.4, or a postsecondary vocational institution as defined in 34 CFR 600.6;

(2) Is offered by an eligible institution that has been approved to operate in a correctional facility by the oversight entity;

(3) After an initial two-year approval, is determined by the oversight entity to be operating in the best interest of students as described in § 668.241;

(4) Offers transferability of credits to at least one institution of higher education (as defined in 34 CFR 600.4 and 600.6) in the State where the correctional facility is located, or, in the case of a Federal correctional facility, in the State where most of the individuals confined or incarcerated individuals in such facility will reside upon release as determined by the institution based on information provided by the oversight entity;

(5) Is offered by an institution that has not been subject, during the five