

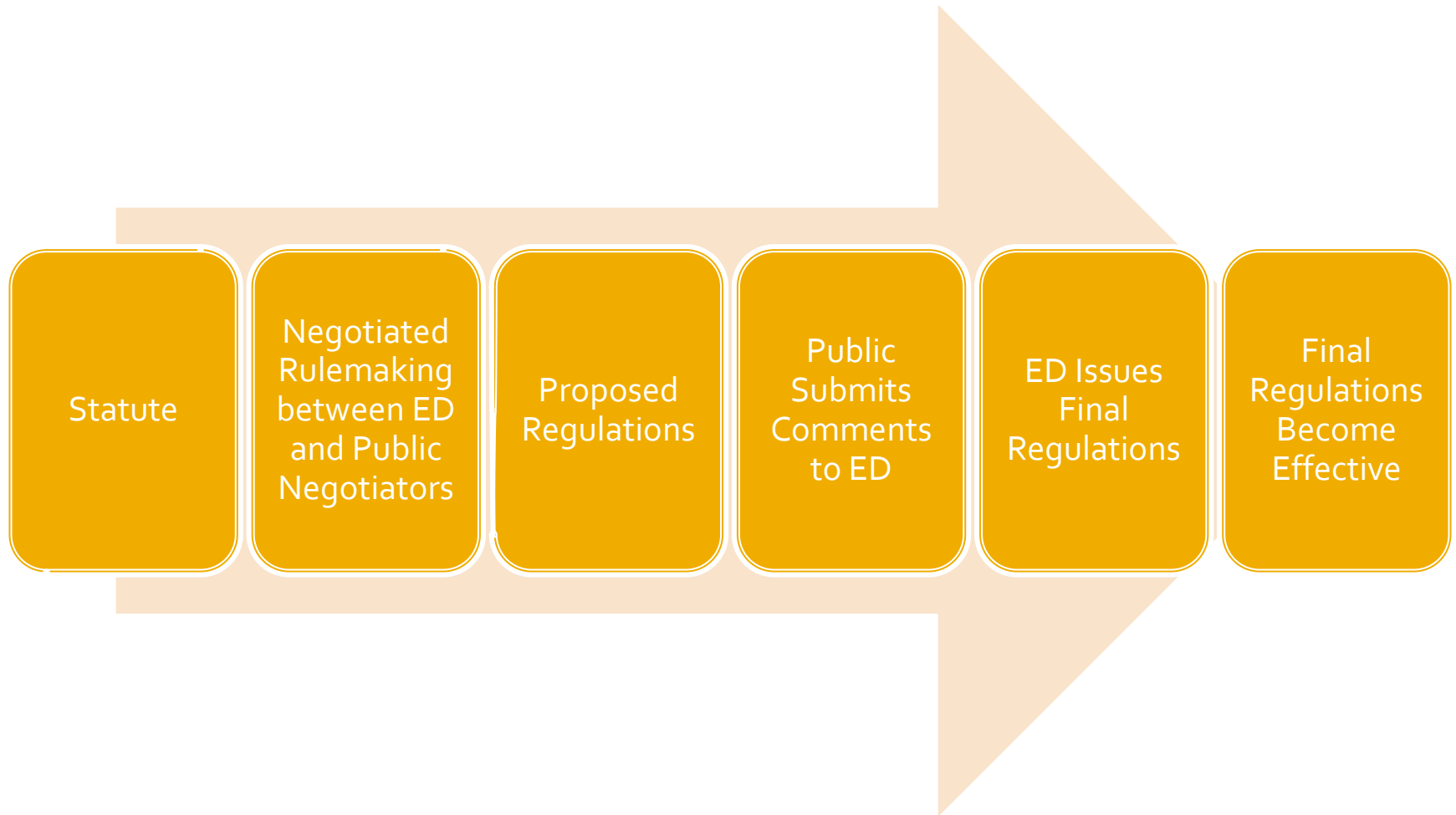
HEOA Final Regulations & Program Integrity Rulemaking

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RULEMAKING PROCESS



CHANGES TO COHORT DEFAULT RATE CALCULATION METHODOLOGY

Effective for 3-year period
ending FY 2011

COHORT DEFAULT RATES: Same or Similar Provisions

- Over 40% in one year = loss of FFEL & Direct;
- 3 consecutive years at or over threshold =, loss of FFEL, Direct, & Pell;
- Loss of eligibility of FY in which school notified and for next 2 FYs;
- Loss of eligibility not in effect while request for adjustment or appeal pending;
- Panoply of appeals still available.



COHORT DEFAULT RATES: Threshold Rates Changed

OLD LAW

- Statutory threshold set at 25% for FYs after 1993

HEOA

- Statutory threshold increased to 30% for FY 2012 and thereafter

COHORT DEFAULT RATE: Expansion of Time Period Included in CDR

OLD LAW

- Counted loans that defaulted before end of fiscal year following FY in which students entered repayment (2-yr period).

HEOA

- Counts loans that default before end of second FY following FY in which students entered repayment (3-yr period).

COHORT DEFAULT RATE:

Impact of Adding Year to CDR Period

Institution Type	Projected 4-Year Rate	Projected 3-Year Rate	Current 2-Year Rate
Public	9.5%	7.2% (+53%)	4.7%
Private (non-profit)	6.5	4.7 (+57%)	3.0
Proprietary	23.3	16.7 (+94%)	8.6
Less than 2-year	26.6	18.5 (+108%)	8.9
2-to 3-year	27.2	19.5 (+97%)	9.9
4-year or more	19.2	13.7 (+88%)	7.3

COHORT DEFAULT RATE: When will impact of new methodology be felt?

When CDR for FY 2009, 2010, and 2011
are all issued.

COHORT DEFAULT RATE: Transition Chart

FY Student Entered Repayment	No. of Yrs. Considered In CDR	Yr. CDR Released	Threshold Percentage
2007	2	2009	25
2008	2	2010	25
2009	2	2011	25
2009	3	2012	25
2010	2	2012	25
2010	3	2013	25
2011	2	2013	25
2011*	3	2014	30
2012	3	2015	30
2013	3	2016	30

COHORT DEFAULT RATE: ED's Publication of "Unofficial Trial" 3-Year Rates

■ December 7, 2009:

- ED publishes projected "unofficial trial" CDRs based on 3-year methodology for FYs 2005, 2006, and 2007.
- Available only to schools: www.nsldsfa.gov

■ December 14, 2009:

- ED make these projected rates available to public
- Will publish on website separate from website for official CDRs to avoid confusion: www.FSADataCenter.ed.gov.

No benefits or sanctions associated with these unofficial rates.

YEAR-ROUND PELL:

Award of Pell from Two Scheduled Awards in
One Award Year

YEAR-ROUND PELL: The Statute

- A student is entitled to a second Pell Grant to permit the student to “**accelerate the student’s progress**” toward a degree or certificate if student is enrolled:
 - at least a half-time basis;
 - for a period of more than one academic year, or more than two semesters or an equivalent period of time;
 - during a single award year; and
 - in a degree or certificate program

YEAR-ROUND PELL: The Question

What does “to accelerate the student’s progress” mean?



YEAR-ROUND PELL: Debate on Acceleration

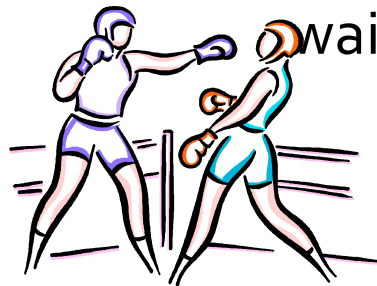
NON-FED NEGOTIATORS

Even part-time students should be able to get second Pell where courses cross over to second academic year within one award year.

US DEP'T OF EDUCATION

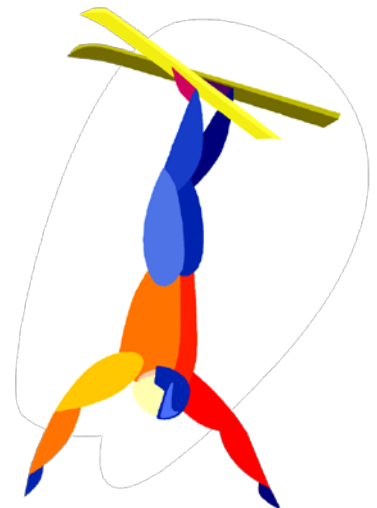
Student must complete one full academic year's worth of credits of first academic year before becoming eligible for second Pell.

Special circumstances
waiver.



YEAR ROUND PELL: Final Regulations ED Reverses Position

- Student Enrolled:
 - On at least half-time basis;
 - For credit or clock hours that are attributable to the student's second academic year;
 - During a single award year; and
 - In a degree or certificate program



YEAR-ROUND PELL:

Example of How to Apply Second Pell

With \$5000 Scheduled Award*

Sept. 2010 Term	Jan. 2011 Term	May 2011 Term
6 credits	12 credits	12 credits
\$1250	\$2500	\$1250+ \$1250 for second Pell

*Assumption of 24-credit academic year



YEAR-ROUND PELL: When to Implement Regulations?

2009-10 AWARD YEAR

- To Eligible Students as Determined by:
 - NPRM language
 - Final regulation requirements; **OR**
 - Statutory Requirements Only:
 - Enrolled in certificate, associate, or baccalaureate program; **AND**
 - Enrolled at least half-time at time any funds from the Second Scheduled Award are awarded.

2010-11 AWARD YEAR AND ON

- To Eligible Students as Determined by **Final Regulations:**
 - Enrolled in certificate, associate, or baccalaureate program;
 - Enrolled on at least half-time;
 - **Enrolled in credit or clock hours that are attributable to student's second academic year.**

PROGRAM INTEGRITY NEGOTIATED RULEMAKING

What to Expect



Satisfactory Academic Progress:

- **Retakes:** Eliminate ability of students to obtain Title IV funds for course re-takes of courses students did not fail.
- **Increments:** Increase frequency of SAP review from every academic year or half the published length of program. Require each increment to include schedule with minimum percentage of amount of work required to successfully complete within MTF.
- **Successful Completion:** Add provision clarifying that SAP standards must lead to successful completion of program within maximum timeframe.
- **C Average:** Require “C” average not just of students in 2-year and longer programs, but of all students.

Satisfactory Academic Progress

- **Probationary Period:** Define as time period after student has successfully appealed SAP status and require student to be making SAP at end of probationary period.
- **Warning Periods:** Define as period during which student may continue to receive Title IV despite not making SAP. Limited to time period shorter than regulatory minimum for SAP increments.
- **Appeals:** Require student to show “special circumstances” and what has changed that will allow progress by end of next increment.
- **Graduate Programs:** May implement provisions directed to graduate students specifically. E.g., require graduate institution to define “maximum timeframe” in accordance with the length of the academic program.

Incentive Compensation

- ED is considering eliminating safe harbors;
- ED takes position that all 12 safe harbors, at least indirectly, compensate individuals for success in securing enrollment;
- ED wants to broaden applicability of prohibition to include not only those involved with recruitment, admission, or award of Title IV, but also to those involved with award of any student financial assistance.



Gainful Employment in a Recognized Occupation: “Gainful Employment”

- **ED Considering Implementing Standards for Assessing Whether Employment “Gainful”:**
 - **OPTION 1: Reasonable Relationship Between Cost of Program and Expected Earnings:** Cost of Program Is Less Than 3x Value Added
 - **OPTION 2: Debt/Income Ratio:** Student's Starting Annual Income Adequate to Repay Average Debt Service Obligation For Program and Cover Living Expenses

R2T4:

Institution Required to Take Attendance

PRESENT RULE

- Institution Required to Take Attendance if :
 - “Outside entity,” such as accrediting or State agency so requires.

RULE UNDER CONSIDERATION

- Institution Required to Take Attendance if:
 - “Outside entity,” such as accrediting or State agency so requires;
 - **Institution itself requires instructor to take attendance; or;**
 - **Institution or outside entity has requirement that students in program demonstrate class attendance in program or part of program and compliance can be determined only by taking attendance or comparable process.**

R2T4: Treatment of Term-Based Module Programs

PRESENT GUIDANCE

- If student completes at least one course in module-based term, student is not considered withdrawn even if student fails to attend all modules.

RULE UNDER CONSIDERATION

- If a student withdraws without completing all the courses for which the student is enrolled or expected to attend in the term, the student is considered a withdrawal, regardless of whether the student has completed any courses.

Verification



PRESENT RULES

- Institutions must verify some or all of 5 items, as specified by ED.
- Institutions are required to verify applicant information of at least 30% of Title IV applicants
- Institutions must require students to verify any information on FAFSA used to calculate EFC that it has reason to believe is inaccurate.

RULES UNDER CONSIDERATION

- Items to be verified not limited to present 5 items; ED will publish items subject to verification annually in Fed. Reg.
- **Increase** limit on % of students that must be verified.
- Institutions must require students to verify any information on FAFSA that is has reason to believe is inaccurate.

High School Diplomas: Possible Changes



PRESENT RULE

- Institutions may rely on self-certification that student has high school diploma or its recognized equivalent unless school has policy to require copy for admission.

RULE UNDER CONSIDERATION

- Requires institutions to maintain list of secondary schools in following categories:
 - Secondary schools that institution has determined from past experience or research are acceptable for Title IV purposes;
 - Secondary schools that institution has determined are not acceptable for Title IV purposes; and
 - Secondary schools that institution has preliminarily determined are acceptable for Title IV purposes, but must make final determination within 90 days of **preliminary** determination.

Credit Hour

PRESENT RULE

- Provides no definition of “credit hour;” relies on accrediting agencies to assess sufficiency.

RULE UNDER CONSIDERATION

- Defines “credit hour” as:
 - Carnegie Unit= 1 hr classroom or direct faculty instruction + 2 hrs out-of-class work + approx 15 weeks (or + 10-12 wks for 1 quarter-hour of credit); **or**
 - Academic work comparable to Carnegie Unit;
 - If Carnegie Unit cannot be applied, institution must:
 - Establish equivalencies based on amount of amount of academic work, learning outcomes, evidence of achievement; and
 - Establish compliance with accrediting agency and State standards.

State Authorization

PRESENT RULE

- To be Title IV eligible, institution must be “legally authorized to provide an educational program beyond secondary education in the State in which the institution is located.”

34 C.F.R. 600.4, 600.5 & 600.6

RULE UNDER CONSIDERATION

- To be “legally authorized” by a State, institution must have:
 - Charter, license, or other document issued by State that conveys authority to operate postsecondary education and grant degrees in State;
 - Action and written documentation by State agency that authorizes, licenses, or otherwise approves institution to establish and operate non-degree program and postsecondary training; **OR**
 - Reciprocal agreement or documented relationship between 2 or more State agencies that approves postsecondary education, including distance education programs if main campus is located in another State.

34 C.F.R. 600.9

Misrepresentation

PRESENT RULE

- Calls for a Subpart G LST proceeding for “substantial misrepresentation” to:
 - Enrolled or prospective student;
 - Family of enrolled or prospective student
- Regarding:
 - Nature of educational program;
 - Financial charges; or
 - Employability of graduates.

RULE UNDER CONSIDERATION

- Expands consequences from LST to also include restrictions or denials of participation;
- Applies to “misrepresentation” instead of “substantial misrepresentation;”
- Expands targets of misrepresentation to include accrediting and state agencies;
- Expands kinds of misrepresentation to include misrepresentation of advertising, promotional materials, or marketing or sales of courses or programs of instruction.

Ability to Benefit

- Would add successful completion of 6 semester or quarter credits or [225 or 180] clock hours in certificate or degree program as alternative to high school diploma, GED, ATB, “state process,” or home schooling;
- Requires ATB publishers to:
 - Have process to identify and follow up on test score irregularities;
 - Take action to decertify test administrators if test administered improperly;
 - Report to ED names of test administrators it decertifies and actions taken resulting from test score analyses.
- Requires test administrators be independent and approved by ED;
- Requires tests publishers to:
 - Show compliance with Section 504 of Rehabilitation Act.
 - Report to Secretary credible information that test has been compromised;
 - Report to ED’s OIG credible information that a test administrator may have engaged in fraud or other criminal misconduct.

Agreements Between Institutions of Higher Education

PRESENT RULE

- Agreements between 2 eligible institutions:
 - Require no accrediting agency approval or review; and
 - No limit on amount of instruction that may be contracted out.
 - No specific notification to students required.

RULE UNDER CONSIDERATION

- Agreements between 2 eligible institutions:
 - Require accrediting agency determination that arrangement meets accrediting agency standards if:
 - More than 50% of the program is contracted out.
- Agreements with eligible **or** ineligible institutions would requires institutions to disclose to students:
 - The portion of the program that the home institution is not providing;
 - The name of the institution that is providing that portion;
 - The method of delivery of that portion of the program;
 - The authorization of the institution to offer the program in the format being provided.

Disbursement of Title IV Funds

PRESENT RULE

- Requires Title IV funds to be disbursed on a payment period basis.

RULE UNDER CONSIDERATION

- Requires all Title IV funds to be disbursed to student for payment period on or before first day of class of payment period unless:
 - For FFEL and Direct, loan period is one payment period;
 - For Perkins, SEOG, Pell, TEACH, ACG, and SMART, if the institution makes multiple disbursements in one payment period, the first disbursement must be direct payment to student sufficient for student to pay for books and supplies.

END

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