

# Standards of School Eligibility



*In this chapter, we'll discuss those aspects of school and program eligibility of which a school's fiscal offices should be aware. You can find information on Applying for Participation in the "Federal Student Aid Handbook, Volume 2 – School Eligibility and Operations."*

A school that wishes to participate in the FSA programs must demonstrate that it is eligible to participate before it can be certified for participation. A school must apply to and receive approval from the Department of its eligibility to participate. Some schools apply only for a designation as an eligible school (they do not seek to participate) so that students attending the school may receive deferments on FSA program loans, or be eligible for the HOPE/Lifetime Learning Scholarship tax credits, or so that the school may apply to participate in federal HEA programs other than the FSA programs. The same application is used to apply for both eligibility and certification for participation (see *the Federal Student Aid Handbook, Volume 2 – School Eligibility and Operations*, chapter 2).

## THE THREE DEFINITIONS OF ELIGIBLE INSTITUTIONS

The regulations governing institutional eligibility define three types of eligible institutions — institutions of higher education, proprietary institutions of higher education, and postsecondary vocational institutions. Under the three definitions, a school is eligible to participate in all the FSA programs provided the school offers the appropriate type of eligible program (see chart on next page). This section covers the key elements of the three definitions, giving special attention to those requirements that affect the definition of an eligible program.

Although the criteria for the three types of institutions differ somewhat, the definitions are not mutually exclusive. That is, a public or private nonprofit institution may meet the definition of more than one type of eligible institution.

## INSTITUTIONAL CONTROL

The *control* of a school distinguishes whether the school is public or private, nonprofit or for profit. Under the institutional definitions, an *institution of higher education* or a *postsecondary vocational institution* can be either public or private, but is always nonprofit. A *proprietary institution of higher education* is always a private, for profit institution.

### The FSA Assessment module

that can assist you in understanding and assessing your compliance with the provisions of this chapter is "Institutional Eligibility," at



<http://ifap.ed.gov/qamodule/InstitutionalEligibility/AssessmentA.html>

and specifically the "Accreditation/State Approval section," at

<http://ifap.ed.gov/qamodule/InstitutionalEligibility/AssessmentApage3.html>

### Definitions of eligible institutions of education cite

34 CFR 600.4, 600.5, and 600.6



### Nonprofit institution

A school that is

- owned and operated by one or more nonprofit corporations or associations whose net earnings do not benefit any private shareholder or individual,
- legally authorized to operate as a nonprofit organization by each state in which it is physically located, and
- determined by the Internal Revenue Service (IRS) to be eligible for tax-deductible contributions in accordance with the IRS Code (26 U.S.C. 501(c)(3)).

## ELIGIBLE INSTITUTION

To be eligible a school must adhere to the following requirements:

It must be *Legally Authorized* by the state where the school offers postsecondary education to provide a postsecondary education program.

It must be *Accredited* by a nationally recognized accrediting agency or have met the alternative requirements, if applicable. And

It must *Admit as a regular student* only individuals with a high school diploma or its recognized equivalent, or individuals beyond the age of compulsory school attendance in the state where the school is located.

### Type and Control of Eligible Institutions

<p><b><i>Institution of Higher Education</i></b></p> <p>A public or private nonprofit educational institution located in a state</p>	<p><b><i>Proprietary Institution of Higher Education</i></b></p> <p>A private, for-profit educational institution located in a state</p>	<p><b><i>Postsecondary Vocational Institution</i></b></p> <p>A public or private nonprofit educational institution located in a state</p>
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### Eligible Programs

<p>(1) Associate, bachelor's, graduate, or professional degree, or</p> <p>(2) At least a two-year program that is acceptable for full credit toward a bachelor's degree, or</p> <p>(3) At least a one-year training program that leads to a degree or certificate (or other recognized educational credential) and prepares students for gainful employment in a recognized occupation.</p>	<p>Program offered: must provide training for gainful employment in a recognized occupation, and must meet the criteria of at least one category below.</p> <p>(1) Provides at least a 15-week (instructional time) undergraduate program of 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. May admit students without an associate degree or equivalent.</p> <p>(2) Provides at least a 10-week (instructional time) program of 300 clock hours, 8 semester or trimester hours, or 12 quarter hours. Must be a graduate/professional program, or must admit only students with an associate degree or equivalent.</p> <p>(3) Provides at least a 10-week (instructional time) undergraduate program of 300-599 clock hours. Must admit at least some students who do not have an associate degree or equivalent, and must meet specific qualitative standards. Note: These programs are eligible only for FFEL and Direct Loan participation.</p>
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### Additional Rules

	<p>"Two-Year Rule" (applicable to proprietary and postsecondary vocational institutions) — Legally authorized to give (and continuously has been giving) the same postsecondary instruction for at least two consecutive years.</p> <p>Special rule (applicable to proprietary institutions) — Derives no more than 90% of its revenues from FSA funds.</p>
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## ADMISSIONS STANDARDS

An eligible school may admit as regular students only persons who have a high school diploma or its recognized equivalent, or persons who are beyond the age of compulsory school attendance in the state in which the school is located.

To be eligible for Federal Student Aid, students who are beyond the age of compulsory attendance but who do not have a high school diploma or its recognized equivalent must meet ability-to-benefit criteria or meet the student eligibility requirements for a student who is home schooled. (For more information on this student eligibility requirement, see *the Federal Student Aid Handbook, Volume 1 – Student Eligibility*).

### High school diploma

Unless required by its accrediting or state licensing agency, the school is not required to keep a copy of a student's high school diploma or GED (the recognized equivalent of a high school diploma (see below)). Rather, the school may rely on the student's certification (including that on the FAFSA) that he or she has received the credential and a copy of the certification must be kept on file. This certification need not be a separate document. It may be collected on the school's admissions application. The school may also require the student to provide supporting documentation.

### Recognized equivalent of a high school diploma

Generally, a recognized equivalent of a high school diploma is either a GED or a state certificate (received after the student has passed a state-authorized test) that the state recognizes as being equivalent to a high school diploma. However, the Department recognizes that there are special cases. If a student has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree, the student's academic transcript is considered equivalent to a high school diploma. A student without a high school diploma who is seeking enrollment in a program of at least the associate-degree level, and who has excelled academically in high school and met formalized written admissions policies of the school, is also considered to have the equivalent of a high school diploma. These students may be eligible to receive FSA program funds without having to meet the ability-to-benefit requirements, provided the students are no longer enrolled in high school. A student who has neither a high school diploma nor its recognized equivalent may become eligible to receive FSA program funds by achieving a passing score (specified by the Department) on an independently administered test approved by the Department. (For a complete discussion of the Ability-to-benefit provisions and additional discussion of home-schooled students' eligibility, see *the Federal Student Aid Handbook, Volume 1– Student Eligibility*.)

### Admissions standards cite

34 CFR 600.4(a)(2)  
34 CFR 600.5(a)(2)  
34 CFR 600.6(a)(2)



### Regular student

A person who is enrolled (or is accepted for enrollment) in an eligible program for the purpose of obtaining a degree, certificate, or other recognized educational credential. Note that, if an individual is not yet beyond the age of compulsory school attendance in the state in which the institution is physically located, the institution may only enroll the individual as a "regular student" if he or she has a high school diploma or its equivalent.

### Regular student cite

34 CFR 600.2

### High school diploma

By high school diploma we mean one recognized by the state in which the high school is located. See "the Federal Student Aid Handbook, Volume 1, Student Eligibility" for more information.

### Ability-to-benefit cite

34 CFR 668, Subpart J



### Ability-to-benefit limitation cite

34 CFR 600.7(a)(1)(iv)

A school that admits students who do not have a high school diploma nor its recognized equivalent has some additional considerations. Unless the school provides a four-year bachelor's degree program or two-year associate degree program, it does not qualify as an eligible school if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma nor its equivalent. A waiver of this limitation is possible for some schools. See the discussion under *Ability-to-benefit limitation* later in this chapter for more information.

### Home schooling

Under the student eligibility provisions of the HEA, a student who does not have a high school diploma or GED is eligible to receive Federal Student Aid if the student completes a secondary school education in a home-school setting that is treated as a home school or private school under state law. However, a student must be enrolled in an eligible school to receive Federal Student Aid, and the statute also requires that an eligible school may admit as regular students only students with high school diplomas or GEDs, or students who are beyond the age of compulsory school attendance in the state in which the school is located.

The Department considers that a home-schooled student is beyond the age of compulsory school attendance if the state in which the eligible school is located does not consider the student truant once he or she has completed a home-school program.

In documenting a home-schooled student's completion of secondary school in a home-schooled setting, a school may rely on a home-schooled student's self-certification that he or she completed secondary school in a home school setting, just as it may accept a high school graduate's self-certification of his or her receipt of a high school diploma. Self-certification of the receipt of a high-school diploma is commonly done through an answer to a question on the Free Application for Federal Student Aid (FAFSA). However, because the FAFSA does not include a question regarding home-school completion, institutions may accept such self-certifications in institutional application documents, in letters from the students, or in some other appropriate record.

#### Home schooling cite

34 CFR 668.32(e), and

DCL: GEN-02-11

Eligibility of Home-Schooled Students –

Institutional and Student Eligibility,

November 27, 2002



#### Home schooling example

If your state requires children to attend school until age 17, you may admit as a regular student a home-schooled student who completes the secondary curriculum at age 16 if your state would not consider the student truant and would not require that student to go back to high school, or continue a home-school education until age 17.

## ADDITIONAL INSTITUTIONAL ELIGIBILITY FACTORS

### *Correspondence course and correspondence student limitation*

In general, a school does not qualify as eligible to participate in the FSA programs if, for the latest complete award year,

- more than 50% of the school's courses were correspondence courses (correspondence course limitation),

This limitation does not apply to a school that mainly provides vocational adult education or job training (as defined under Sec. 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act).

- 50% or more of the school's regular enrolled students were enrolled in correspondence courses (correspondence student limitation).

This limitation may be waived for a school that offers a two-year associate degree or four-year baccalaureate degree program if the school demonstrates to the Department that in that award year, the students enrolled in its correspondence courses receive no more than 5% of the total FSA program funds received by all of the school's students in the award year.

For additional information on the effects of correspondence courses and students on institutional eligibility, see *the Federal Student Aid Handbook, Volume 2 – School Eligibility and Operations*, chapter 8.

### *Incarcerated student limitation*

A school is not eligible for FSA program participation if, in its latest complete award year, more than 25% of its regular students are incarcerated. A public or private non-profit school can ask the Department to waive this limitation. For a public or private non-profit school offering only two-year or four-year programs that lead to associate or bachelor's degrees, the waiver applies to all programs offered at the school. However, if the public or private non-profit school offers other types of programs, the waiver would apply to any of the school's two-year associate degree programs or four-year bachelor's degree programs, and also to any other programs in which the incarcerated regular students enrolled have a 50% or greater completion rate. (The calculation of this completion rate is specified in Section 600.7(e)(2) of the Institutional Eligibility regulations and must be attested to by an independent auditor.) If granted, the waiver is effective as long as the public or private non-profit school continues to meet the waiver requirements each award year. For information on the eligibility of incarcerated students for FSA assistance, see *the Federal Student Aid Handbook, Volume 1 – Student Eligibility*.

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#### **Conditions of institutional ineligibility cite**

34 CFR 600.7




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#### **Correspondence limitations cite**

Sec. 481(a)(3)(A) and (B) of the HEA  
34 CFR 600.7(a)(1)(i) and (ii)

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#### **Student eligibility**

For information about a student's eligibility for FSA program funds while enrolled in a correspondence course and cost of attendance information for correspondence courses, see "the Federal Student Aid Handbook, Volume 1 – Student Eligibility."

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#### **Incarcerated student defined**

An "incarcerated student" is a student who is serving a criminal sentence in a federal, state, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution (does not include detention in a halfway house, home detention, or weekend-only sentences).

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#### **Incarcerated student limitation cite**

34 CFR 600.7(a)(1)(iii) and 600.7(c)



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**Ability-to-benefit cite**

34 CFR 668, Subpart J



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**Ability-to-benefit limitation cite**

34 CFR 600.7(a)(1)(iv)

## Ability-to-benefit limitation

A student who has neither a high school diploma nor its equivalent is referred to as an *ability-to-benefit* student (see *the Federal Student Aid Handbook, Volume 2 – School Eligibility and Operations* for additional information about ability-to-benefit students). Unless a school provides a four-year bachelor’s degree program, or a two-year associate degree program, the school will not qualify as an eligible school if, for its latest complete award year, more than 50% of its regular enrolled students had neither a high school diploma nor its equivalent.

If a public or private nonprofit institution exceeds the ability-to-benefit limitation because it serves significant numbers of ability-to-benefit students through contracts with federal, state, or local government agencies, the Department may waive the limitation.

The waiver will only be granted if no more than 40% of the public or private non-profit regular students not served through contracts with federal, state, or local government agencies to provide job training do not have a high school diploma or its equivalent. If granted, the waiver may be extended in each year the public or private non-profit school continues to meet the requirements. The public or private non-profit school’s ability-to-benefit calculation must be attested to by an independent auditor.

## Bankruptcy

A school is not an eligible school if the school, or an affiliate of the school that has the power, by contract or ownership interest, to direct or cause the direction of the management of policies of the school, files for relief in bankruptcy or has entered against it an order for relief in bankruptcy.

## Crimes involving FSA program funds

In order to safeguard FSA funds, schools are prohibited from having as principals or employing, or contracting with other organizations that employ individuals who have engaged in the misuse of government funds. Specifically, a school must not knowingly –

1. employ in a capacity that involves the administration of the Title IV, HEA programs or the receipt of funds under those programs, an individual who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of law involving federal, state, or local government funds;

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**Prohibited associations cite**

34 CFR 668.14(b) (18)(i), (ii), & (iii)



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**Disqualified individuals and the PPA**

In its PPA, a school agrees to not knowingly employ in a capacity involving the administration of Title IV funds, anyone who has pled nolo contendere or guilty or has been administratively or judicially determined to have committed fraud or any other material violation of the law

2. contract with a school or third-party servicer that has been terminated under the HEA for a reason involving the acquisition, use, or expenditure of federal, state, or local government funds, or that has been administratively or judicially determined to have committed fraud or any other material violation of law involving federal, state, or local government funds; or
3. contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been:
  - a. convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds; or
  - b. administratively or judicially determined to have committed fraud or any other material violation of law involving federal, state, or local government funds.

