Institutional Eligibility

This chapter discusses the three types of institutions that are eligible to participate in the Federal Student Aid (FSA) programs. If circumstances change and a participating school no longer qualifies as an eligible institution, it must notify the Department of Education (the Department; see Chapter 5) and carry out the closeout procedures described in Chapter 8.

Schools must apply to and receive approval from the Department to be eligible to participate in the FSA programs before they can be certified for participation. Some schools apply only for designation as an eligible institution—they do not seek to participate—so that their students may receive deferments on FSA program loans or be eligible for the American Opportunity and Lifetime Learning tax credits or other non-FSA programs that require schools to be FSA-eligible. The same application is used to apply for both eligibility and certification for participation (see Chapter 2).

TYPE & CONTROL

The three types of eligible institutions

The law defines three kinds of eligible institutions: institutions of higher education, proprietary institutions of higher education, and postsecondary vocational institutions. Each type of school is eligible to participate in all the FSA programs, provided it offers the appropriate type of program (see the chart on the 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, it is possible for some programs at an institution of higher education to meet the requirements for a postsecondary vocational institution.

Institutional control

The control of an institution distinguishes whether it is public or private, nonprofit or for-profit. By definition, 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.

Related information

➔ Eligible program—Chapter 2
➔ Closeout procedures—Chapter 8
➔ Applying to participate, New School Guide
➔ Eligibility of home-schooled and correspondence students—Volume 1, Chapter 1

Assessing your school’s compliance

To assess your school’s compliance with the provisions of this chapter, see the FSA Assessment module for “Institutional Eligibility,” at: http://ifap.ed.gov/qahome/qaassessments/institutionalelig.html.

Definitions of eligible institutions

34 CFR 600.4, 600.5, and 600.6
<table>
<thead>
<tr>
<th>Institution of Higher Education</th>
<th>Proprietary Institution of Higher Education</th>
<th>Postsecondary Vocational Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>A public or private nonprofit educational institution located in a state</td>
<td>A private, for-profit educational institution located in a state</td>
<td>A public or private nonprofit educational institution located in a state</td>
</tr>
</tbody>
</table>

The institution offers

1. associate, bachelor’s, graduate, or professional degree programs;
2. a program of at least two years that is acceptable for full credit toward a bachelor’s degree; or
3. a training program of at least one academic year that leads to a certificate or other nondegree recognized credential and prepares students for gainful employment in a recognized occupation.

The institution must

1. provide training for gainful employment in a recognized occupation or
2. have provided a program leading to a baccalaureate degree in liberal arts continuously since 1/1/09 (with continuous regional accreditation since 10/1/07 or earlier).

Programs offered must meet the criteria of at least one category below:

1. They are at least a 15-week (instructional time) undergraduate program of 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. They may admit students without an associate degree or equivalent.
2. They are at least a 10-week (instructional time) program of 300 clock hours, 8 semester or trimester hours, or 12 quarter hours. They must be a graduate/professional program or must admit only students with an associate degree or equivalent.
3. They are at least a 10-week (instructional time) undergraduate program of 300–599 clock hours. They 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 Direct Loan participation.

All three institutional types may also provide a comprehensive transition and postsecondary program for individuals with intellectual disabilities.

“Two-Year Rule” (applicable to proprietary and postsecondary vocational institutions): Legally authorized to give (and continuously have been giving) the same postsecondary instruction for at least two consecutive years.
BASIC CRITERIA FOR ELIGIBLE INSTITUTIONS

To be eligible an institution must

- be legally authorized by a state to provide a postsecondary education program in that state,
- be accredited by a nationally recognized accrediting agency or have met the alternative requirements, if applicable, and
- 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 institution is located.

These requirements are discussed in the following sections.

LEGAL AUTHORIZATION BY A STATE

Generally, an eligible institution must be located in a state. A school is physically located in a state if it has a campus or instructional site in that state. There are exceptions:

- Institutions of higher education in the Federated States of Micronesia and the Republic of the Marshall Islands are eligible for purposes of the Federal Pell Grant Program.
- Institutions of higher education in Palau are eligible for purposes of the Federal Pell Grant, FSEOG, and FWS programs.
- Foreign schools may participate in the Direct Loan Program, subject to the rules of Subpart E of 34 CFR Part 600.

There are two basic requirements for an institution to be considered legally authorized by a state for the purpose of Title IV program eligibility: (1) the state must authorize the institution by name to operate postsecondary educational programs; and (2) the state must have a process to review and act on complaints concerning the schools, including enforcing applicable state laws. The following are exempt from both of these requirements:

- schools authorized by name by the federal government to offer educational programs beyond secondary education, and
- schools authorized by name by an Indian tribe [as defined in 25 USC 1801(a)(2)] to offer educational programs beyond secondary education, provided they are located on tribal lands and the tribal government has a process to review and appropriately act on complaints concerning the schools and enforces applicable tribal requirements or laws.

Religious institutions must comply with (2) but are exempt from (1) above—i.e., they are already considered to be legally authorized to operate postsecondary educational programs—if they are exempt from state authorization as religious institutions under the state constitution or by state law. See the definition in the margin on the following page.
Authorization to operate postsecondary educational programs

A school can be established by name as an educational institution through a state charter, statute, constitutional provision, or other action by an appropriate state entity. The school must be authorized to operate educational programs beyond the secondary level, including programs leading to a degree or certificate. In addition, the institution must comply with any applicable state approval or licensure requirement, although the state may exempt the school from that approval or requirement based on the school being in operation for at least 20 years or on its accreditation by one or more accrediting agencies recognized by the Department.

If a school was not established by name as an educational institution but was established by a state on the basis of an authorization to conduct business or to operate as a nonprofit charitable organization, it must be approved or licensed by name by the state to offer programs beyond secondary education, including programs leading to a degree or certificate. Such a school can’t be exempted from state approval or licensure requirements based on accreditation, years in operation, or a comparable exemption.

A school must have documentation that it has the authority to operate in a state at the time of its certification to participate in the FSA programs. For more information on applying for participation in the FSA programs, see the New School Guide. Existing Title IV schools should ensure that they are currently in compliance with the regulations, but they are not required to immediately update their Eligibility and Certification Approval Report (ECAR). Instead, they can include the information showing their state authorization when they next submit their application for approval to...
participate in the FSA programs. For questions about documenting state legal authorization, schools should contact their participation team, information for which can be found at [www.eligcert.ed.gov](http://www.eligcert.ed.gov/).

**State complaint process**

The state must have a process to review and act on complaints (for example, about fraud or false advertising) concerning a school, which must provide the contact information for filing those complaints to enrolled and prospective students. Complaints can be handled by the state attorney general’s office or a state agency as long as that entity can review, investigate, and resolve complaints against the school. There may be different complaint processes for different types of schools. Whatever entity handles complaints, the state must have the final authority for the process. See DCL GEN-14-04 for more information.

**ACCREDITATION**

Generally, a school must be accredited or preaccredited by a nationally recognized accrediting agency or association (both referred to here as agencies) to be eligible.

Except as provided here, a school must be accredited by an agency that has the authority to cover all of the institution’s programs. An agency such as this is referred to as the school’s *primary accrediting agency*. A school can have only one primary accreditor.

A school may also be accredited by one or more programmatic accrediting agencies. A *programmatic accrediting agency* is one that accredits only individual educational programs that prepare students for entry into a profession, occupation, or vocation.

If a school is seeking to change primary accreditors, it must first provide the Department and the agencies all materials documenting the reasons for the change. Information on accreditation changes is in Chapter 5.

**Alternatives to regular accreditation**

The law provides two statutory alternatives to accreditation by a recognized accrediting agency. First, a public or private nonprofit institution may be preaccredited by an agency or association that has been approved by the Department to grant such preaccreditation. Second, public postsecondary vocational educational institutions may be eligible for FSA funds if accredited by a state agency that the Department determines to be a reliable authority.

**Primary accreditor**

The primary accreditor typically is an accrediting agency whose scope is institution-wide rather than only programmatic. A participating institution must tell the Department which accrediting agency it wants to serve as its primary accrediting agency for FSA eligibility. If a school offers only programs of a singular nature, the school’s primary accreditor may be an agency that accredits only those specific educational programs.

**Role of state entities**

The regulations mention, as one option, that an institution may be established by name through some “other action” by an appropriate state entity. Other institutions, established as businesses or nonprofit charitable institutions, must show that the state took an active role in approving or licensing them to operate postsecondary educational programs. For details on these and other issues, see DCL GEN-13-20.

**Nationally recognized accrediting agency**

An agency or association the Department has recognized to accredit or preaccredit a category of institution, school, or educational program according to 34 CFR Parts 602 and 603.

**List of accrediting agencies**

The Department periodically publishes a list of nationally recognized accrediting bodies in the *Federal Register* based on criteria in 34 CFR Part 602. The list of accrediting agencies recognized for FSA purposes is on the Department’s website at [www.ed.gov/admins/finaid/accred/index.html](http://www.ed.gov/admins/finaid/accred/index.html).

Agencies recognized for their preaccreditation categories are in Section 7. Information about national recognition of state approval agencies is in Section 10.

**Preaccredited**

A status granted by a nationally recognized accrediting agency or association to a public or private nonprofit institution that is progressing toward accreditation within a reasonable period of time. Institutions of Higher Education

34 CFR 600.4(a)(5)(ii)

Postsecondary Vocational Institutions

34 CFR 600.6(a)(5)(i)

**Alternatives to accreditation**

Institutions of Higher Education

34 CFR 600.4(a)(5)(ii)

Postsecondary Vocational Institutions

34 CFR 600.6(a)(5)(ii)
**Dual accreditation**

If a school is accredited by two agencies at the same time, the school must designate which agency’s accreditation will be used in determining institutional eligibility for FSA funds and must inform the Department via the E-App. Further, the school must provide to the Department and to both agencies all materials documenting the reasons for dual accreditation before the school adds the additional accreditation. See Chapter 5 for more on changes in accreditation and loss of eligibility.

**ADMISSIONS STANDARDS**

An eligible institution may admit as regular students only persons who have a high school diploma or its recognized equivalent, are beyond the age of compulsory school attendance in the state in which the school is located, or are dually enrolled in the college and a secondary school. Admissions standards also play a role in student eligibility, as discussed in Volume 1, Chapter 1.

**High school diploma**

A high school diploma is a document recognized by the state in which the high school is located. Unless required by its accrediting or state licensing agency, the college is not required to keep a copy of a student's high school diploma or recognized equivalent of a high school diploma (see below). Rather, the college 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 college’s admissions application. The college may also require the student to provide supporting documentation.

**Recognized equivalent of a high school diploma**

The following are the equivalent of a high school diploma:

- A GED certificate.
- A state certificate awarded after passing an authorized test and that the state recognizes as equivalent to a high school diploma. This includes evidence of a passing score on tests recognized by the state and similar to the GED, such as the High School Equivalency Test or HiSET and the Test Assessing Secondary Completion or TASC.
- An academic transcript showing that the student has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor’s degree.
- For a student seeking enrollment in a program of at least the associate degree level, documentation showing that he excelled academically in high school and has met the formalized written admissions policies of the college.

**Homeschooled students and compulsory school attendance**

The Department considers that a homeschooled student is beyond the age of compulsory school attendance if the state in which the eligible institution is located does not consider him truant once he has completed the homeschool program.
Institutional Eligibility

Chapter 1

Branch campus

A branch campus is a location of a school that is geographically apart and independent of the main campus of the school. A location is considered to be independent of the main campus if the location:

- is permanent in nature;
- offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;
- has its own faculty and administrative or supervisory organization; and
- has its own budgetary and hiring authority.

Preparatory programs for students without a high school diploma or equivalent

A school that admits students without a high school diploma or its recognized equivalent (except homeschooled students) must make available to them a program that has proven successful in helping students obtain the equivalent of a high school diploma.

For example, such a program might assist a student in obtaining a GED certificate or the state certificate mentioned earlier. It could be a preparatory program conducted by state and local secondary school authorities, as well as a program for which the school has documentation that statistically demonstrates success. The school must provide information about the availability of the program to interested students.

The school does not have to provide the program or pay for its cost. The program must be offered at a place that is convenient for students, and the school must take reasonable steps to ensure that students have access to it, such as coordinating the timing of school programs and the preparatory program.

The law does not require a school to verify that a student is enrolled in a preparatory program or to monitor his progress in it. A student who does not have a high school diploma or its recognized equivalent is not required by law to enroll in such a program, but the school may make this an admission requirement.

A student may not receive FSA funds for the program.

“TWO-YEAR” RULE FOR NEW PROPRIETARY OR VOCATIONAL SCHOOLS

To be eligible as a proprietary institution or a postsecondary vocational institution, a school must be legally authorized to give (and have continuously been giving) the same postsecondary instruction for at least two consecutive years prior to its application. The educational program(s) offered must remain substantially the same in length and subject matter except for changes made because of new technology or requirements of other federal agencies. A school subject to the two-year rule may not award FSA funds to a student in a program that is not included in the school’s approval documents.

If a school is subject to the two-year rule, during the school’s initial period of participation in the FSA programs, the Department will not approve additional programs that would expand the institution’s eligibility.

Limitation on students admitted without HS diploma or equivalent

A school that admits students who do not have a high school diploma nor its recognized equivalent has some additional considerations. A waiver of this limitation is possible for some schools. See the discussion under Limitation on students admitted without a high school diploma or equivalent in Chapter 4.

Students without high school diploma or equivalent, related topics

See Chapter 2 for transition programs for students with intellectual disabilities. For remedial coursework and students with intellectual disabilities, see also Volume 1, Chapter 1.

Branch campus

A branch campus is a location of a school that is geographically apart and independent of the main campus of the school. A location is considered to be independent of the main campus if the location:

- is permanent in nature;
- offers courses in educational programs leading to a degree, certificate, or other recognized educational credential;
- has its own faculty and administrative or supervisory organization; and
- has its own budgetary and hiring authority.

Branch campus

34 CFR 600.2 and 600.8
Additional location
34 CFR 600.32
An exception would be considered if the school demonstrates that the program has been legally authorized and continuously provided for at least two years prior to the date of the request.

A branch campus of an eligible proprietary institution or postsecondary vocational institution seeking status as a main campus or freestanding institution is subject to the two-year rule. It must be designated as a branch campus for two years after certification as such by the Department before it can seek certification as a main or freestanding school.

An additional location must obtain approval from the Department to become a branch campus. A branch campus then must satisfy the two-year rule before it may be considered for status as a freestanding institution. Time at an additional location of an eligible proprietary institution or postsecondary vocational institution does not count toward the two years.

**FACTORS LEADING TO LOSS OF ELIGIBILITY**

**Limitations**

An otherwise eligible institution becomes ineligible if it violates, among other requirements,

- the 50% limit on students without a high school diploma or equivalent (for schools that don’t offer a 4-year bachelor’s degree program or a 2-year associate degree program),
- the incarcerated student limitation (25%), or
- the correspondence student limitation (50%) or correspondence course limitation (50%).

The school must demonstrate compliance with these limitations, and its calculations must be attested to by the independent auditor. Chapter 4, which describes FSA audit requirements, discusses the calculations in more detail and how the school must notify the Department of a failure to meet any of these requirements.

**Bankruptcy or crimes involving FSA programs**

A school is not eligible if it files for relief in bankruptcy or has entered against it an order for bankruptcy. The school is also ineligible if either of these circumstances apply to 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.

A school also loses eligibility if it, its owner, or its executive officer has

- pled guilty or nolo contendere to, or is found guilty of, a crime involving the acquisition, use, or expenditure of FSA program funds; or
- been judicially determined to have committed fraud involving FSA program funds.

If a school becomes ineligible for any of these reasons, it must notify the Department of the change within 10 days. A school that becomes ineligible...
because of one of these factors must immediately stop awarding FSA funds and must follow the requirements for a school that has lost its FSA participation (see Chapter 8). The loss of eligibility is effective as of the date of the bankruptcy or the date the school or individual pleads guilty to, or is found responsible for, the crime, as applicable. A loss of eligibility for these two reasons is permanent—the school’s eligibility cannot be reinstated.

CRITERIA TO PARTICIPATE IN TEACH GRANT PROGRAM

Eligibility for the Teacher Education Assistance for College and Higher Education (TEACH) Grant program is not automatically extended to an FSA-eligible postsecondary school. A school qualifies as a “TEACH Grant-eligible institution” if it offers a high-quality teacher preparation program at either the baccalaureate or masters level and provides supervision and support services to teachers (or assists in the provision of such services). The teacher preparation program must be accredited by a specialized accrediting agency recognized by the Department for the accreditation of professional teacher education programs or be approved by a state and provide extensive pre-service clinical experience.

If a school does not have a teacher preparation program, it can qualify for TEACH grants if it

- provides one or more 2-year programs of study that are acceptable for full credit to either a baccalaureate teacher preparation degree program or a baccalaureate degree program in a high-need field at another TEACH-eligible school with which it has an agreement;
- offers a baccalaureate degree that, in combination with other training or experience, will prepare a student to teach in a high-need field and has an agreement with another institution that offers a teacher preparation program or a post-baccalaureate program that prepares students to teach; or
- offers a postbaccalaureate program that prepares students to teach.

APPLYING AS AN ELIGIBLE NONPARTicipATING SCHOOL

Some schools choose to establish their eligibility for FSA programs but elect not to participate in them because designation as an eligible institution qualifies a school or its students to take advantage of non-FSA programs or benefits, such as the American Opportunity and Lifetime Learning tax credits. In addition, only students attending eligible institutions qualify for in-school deferments of payments on their federal education loans.

A school wishing to be designated an eligible nonparticipating institution may submit an E-App to the Department at any time. The application must be materially complete.

The Department will contact the school, generally within 90 days of receiving the application, if it has additional questions. If it approves the school’s application, it will send an electronic notice to the president and financial aid officer stating that the school is eligible and that its approval
CORRESPONDENCE STUDENTS ARE ENROLLED IF THEY HAVE BEEN ADMITTED TO THE PROGRAM AND HAVE SUBMITTED ONE LESSON (THAT WAS COMPLETED WITHOUT THE ASSISTANCE OF A SCHOOL REPRESENTATIVE).
Selected provisions of the Program Participation Agreement

Most of the provisions of the Program Participation Agreement (PPA) are discussed in detail in Volume 2 and other volumes of the Federal Student Aid Handbook. In this section, we highlight some of the general school requirements in the PPA that may not be as familiar to financial aid professionals.

Note that the PPA may list additional requirements that are school-specific; schools must carefully review all of the requirements listed on their PPA.

**General Terms & Conditions**

- The school certifies that it will comply with
  - a. Title VI of the Civil Rights Act of 1964, as amended, barring discrimination on the basis of race, color, or national origin;
  - b. Title IX of the Education Amendments of 1972, barring discrimination on the basis of sex;
  - c. The Family Rights and Privacy Act of 1974 (see Chapter 7);
  - d. Section 504 of the Rehabilitation Act of 1973, barring discrimination on the basis of physical handicap (34 CFR Part 104); and

- The school acknowledges that the Department, states, and accrediting agencies may share information about the school without limitation.

- The school acknowledges that the school must, prior to any other legal action, submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration.

**General Provisions**

- The school will use funds received under any FSA program, as well as any interest and other earnings thereon, solely for the purposes specified for that program.

- If the school is permitted to request FSA program funds under an advance payment method, the school will time its requests for funds to meet only the school’s immediate FSA program needs (see Volume 4, Chapter 2).

- The school will not charge for processing or handling any application, form, or data used to determine a student’s FSA eligibility (see Chapter 3).

- The school will establish administrative/fiscal procedures and reports that are necessary for the proper and efficient management of FSA funds, and it will provide timely information on its administrative capability and financial responsibility to the Department and to the appropriate state, guaranty, and accrediting agencies (see Chapter 6).
Selected provisions of the Program Participation Agreement, continued

- The school must acknowledge the authority of the Department and other entities to share information regarding fraud, abuse, or the school’s eligibility for participation in the FSA programs (see Chapter 8).
- The school must, in a timely manner, complete reports, surveys, and any other data collection effort of the Department including surveys under the Integrated Postsecondary Education Data System (see Chapter 6).
- The school cannot penalize in any way a student who is unable to pay school costs due to compliance with the FSA program requirements or due to a delay in an FSA loan disbursement caused by the school.
- The school must comply with the program integrity requirements established by the Department, state authorizing bodies, and accrediting agencies (see Chapter 8).
- The school is liable for all improperly administered funds received or returned under the FSA programs, including any funds administered by a third-party servicer (see Chapter 3).
- If the program offered by the school is preparing students for gainful employment in a recognized occupation, the school will
  a. demonstrate a reasonable relationship [as defined in 34 CFR 668.14(b)(26)(i)] between the length of the program and entry level requirements for the recognized occupation, and
  b. establish the need for the training for students to obtain employment in the recognized occupation.

Certifications
Three certifications are included in the PPA:
- Lobbying; Debarment, Suspension, and other responsibility matters; and Drug-Free Workplace Requirements (see Chapter 6).
- Drug Prevention Certification (see Chapter 6).
- Certification regarding Debarment, Suspension, Eligibility, and Voluntary Exclusion—lower tier covered transactions.

Direct Loans
- The school will not charge any fees of any kind to student or parent borrowers for loan application, origination activities, or the provision and processing of any information needed to receive a Direct Loan.
- The note or evidence of obligation of the loan shall be the property of the Secretary.
- The school accepts responsibility and financial liability stemming from its failure to perform its functions under this Program Participation Agreement.

Additional requirements
In addition to the requirements listed on the PPA, a school must meet any requirements for participation in the General Provisions (34 CFR Part 668), as well as those specific to an individual FSA program.

FEDERAL PELL GRANT PROGRAM, 20 USC 1070a et seq; 34 CFR Part 690.
FEDERAL DIRECT STUDENT LOAN PROGRAM, 20 USC 1087a et seq; 34 CFR Part 685.
FEDERAL PERKINS LOAN PROGRAM, 20 USC 1087aa et seq; 34 CFR Part 674.
FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM, 20 USC 1070b et seq; 34 CFR Part 676.
FEDERAL WORK-STUDY PROGRAM, 42 USC 2751 et seq; 34 CFR Part 675.

These requirements are discussed in the Application and Verification Guide and volumes 1–6 of this Federal Student Aid Handbook.