

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

2014 APR 25 AM 9:57

RECEIVED
IRRC

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Pennsylvania Higher Education Assistance Agency

(2) Agency Number: ~~079~~ ⁰⁵⁸ _{use}

Identification Number: ~~039~~ ⁰²⁴ _{use}

IRRC Number: 3020

(3) PA Code Cite: 22 PA Code Chapter 121. Student Financial Aid

(4) Short Title: PHEAA Regs

(5) Agency Contacts (List Telephone Number and Email Address):

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Director of Enterprise Compliance

Legal and Compliance Services

AES/PHEAA

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Harrisburg, PA 17102-1444

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

22 PA Code Chapter 121 addresses certain requirements and definitions for student and institutional eligibility for the Pennsylvania Higher Education Grant Program. These regulations are being updated to comply with current standards.

(8) State the statutory authority for the regulation. Include specific statutory citation.

This rulemaking is authorized by section 6 (e) added December 18, 1969 P.L. 393 to 1965 P.L.1546, No.541.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

While the rulemaking is needed to implement the statute it covers, it is not mandated by any other federal or state law or court order or federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The final-form rulemaking will modernize citations, update technical references, and provide better clarity than the current regulations. These proposed revisions do not impact program eligibility or participants.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is authorized by section 6 (e) added December 18, 1969 P.L. 393 to 1965 P.L.1546, No.541.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

This rulemaking will not negatively impact any participating institutions or students.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

All Pennsylvania Higher Education Grant recipients and participating institutions are required to abide by the program regulations. For the most recently completed award year there were approximately 200,000 student awards and 1,200 participating post-secondary schools.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There would be no costs or savings to the regulated community.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There would be no costs or savings for local governments.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There would be no costs or savings for state government.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 (FY2010-11) Appropriated	FY -2 (FY2011-12) Appropriated	FY -1 (FY2012-13) Appropriated	Current FY (FY 2013-14) Appropriated
Higher Education Grants	\$388,313,000	\$380,935,000	\$344,888,000	\$344,888,000

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no costs or adverse effects from the regulatory changes as these only modernize references to contemporary standards.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

A number of different entities were informed of the proposal to change the State Grant regulations:

- The PHEAA Board of Directors in March of 2011.
- The PHEAA Committee on Need Analysis and Aid Coordination in April of 2011.
- On May 24, 2011, the Majority and Minority Chairs of the House and Senate Education Committees were provided with the proposed regulatory changes.
- On June 1, 2011 the proposed regulations were sent to the Pennsylvania financial aid community for review and comment. This included financial aid administrators at all State Grant eligible post-secondary institutions in Pennsylvania and the Pennsylvania State Grant Advisory Committee.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory schemes were considered as these proposals only address technical amendments and clarity.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

The final-form rulemaking would not be more stringent and would not overlap with any federal requirements.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Each state has its own grant programs that are unique to state initiatives and mandates. These programs are not competitive.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This final-form rulemaking would not require any legal, accounting or consulting procedures or any additional recordkeeping or other paperwork.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no special needs of any subset of it applicants or schools for whom special accommodations should be made.

(26) Include a schedule for review of the regulation including:

- | | |
|---|-------------|
| A. The date by which the agency must receive public comments: | N/A |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | N/A |
| D. The expected effective date of the final-form regulation: | August 2014 |
| E. The date by which compliance with the final-form regulation will be required: | August 2014 |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

(27) Provide the schedule for continual review of the regulation.

The PHEAA Board of Directors periodically reviews the efficacy of its regulations and notes those regulations that require attention.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU APR 25 AM 9: 57

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

PHEAA
(AGENCY)

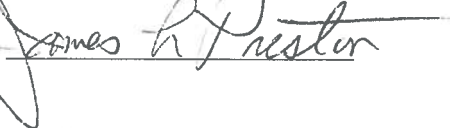
BY: 
(General Counsel, PHEAA)

DOCUMENT/FISCAL NOTE NO. 58-24

DATE OF APPROVAL

DATE OF ADOPTION: April 10, 2014

DATE OF APPROVAL

BY: 
TITLE: President
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable
Copy not approved.
Objections attached.

Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

NOTICE OF FINAL-FORM RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Higher Education Assistance Agency

22 PA. CODE, CHAPTER 121
STUDENT FINANCIAL AID

FINAL RULEMAKING

PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY STATE GRANT AND SPECIAL PROGRAMS

22 PA. CODE CH. 121

The Pennsylvania Higher Education Assistance Agency (PHEAA), State Grant and Special Programs department, proposes amended final regulations as set forth in Annex A, for inclusion in Title 22, Chapter 121. Student Financial Aid: Subchapter A – General Provisions

A. Statutory Authority

This rulemaking is authorized by section 6 (e) added December 18, 1969 P.L. 393 to 1965 P.L.1546, No.541.

B. Background and Description of Final Rulemaking

The purpose of this rulemaking, which covers 17 sections of PHEAA's regulations, is to update the regulations to conform to current practice. PHEAA is changing provisions that are obsolete, inconsistent, or superseded by current higher education practice. References to obsolete subdivisions are removed or replaced with current references. References to specific forms, some of which are outdated, are removed whenever possible.

In addition to the foregoing types of changes throughout the rulemaking, there are particular changes as described below:

Description of the Amendments

§ 121.1 Definitions.

- Updating the definition of Academic Year ending date to coincide with the end of final examinations;
- Updating the definition of College Entrance Examination to recognize the alternative examinations used by higher education institutions;
- Deleting the definition of SAT because it is no longer the only recognized entrance examination;
- Update definition of Veteran to comply with current federal standards.

§ 121.3 Discrimination prohibited.

- Technical edit and updating language to remove reference to the Federal Family Education Loan because it is no longer relevant to the higher education grant program.

§ 121.4 Denial of eligibility to loan defaulters.

- Clarifying amendments to be inclusive of federal, state and private loans.

§ 121.5 Enrollment.

- Deleting outdated language.

§ 121.7 Notice of denial and preliminary review procedures.

- Update and deleting outdated language and reference to outdated forms
- Simplification of process.

§ 121.8 Applicant and recipient appeals and hearings.

- Updating and deleting outdated language and reference to outdated forms
- Simplification of process.

§ 121.21 Requirements for higher education grant applicants.

- Clarifying amendment to reference the Pennsylvania Department of Education.

§ 121.22 Early admission students.

- Clarifying amendment to replace the term “senior high” with the more current term “secondary” school.

§ 121.32 Approved institution in higher education grant program.

- Updating language to reference current accrediting bodies
- Clarifying amendments to reference Pennsylvania Department of Education and to recognize the appropriate responsible persons in institutions of higher education.

§ 121.33 Approved program of study in higher education grant program.

- Clarifying amendment referencing Pennsylvania Department of Education and Pennsylvania State Board of Private Licensed Schools.

§ 121.41 Grouping of applicants.

- Updating reference to a college entrance examination, in accordance with the removal of reference to SAT and the newly defined term of “college entrance examination” under §121.1.

§ 121.44 Required family financial data.

- Updating references to United States Department of Education criteria.

§ 121.47 State Higher Education Grant Program Manual

- Amendments to increase transparency and update reference to recognized accrediting bodies.

§ 121.48 Limitation on payment of grants.

- Clarifying amendment regarding deadlines for payments of grants.

§121.52 Transferring an award.

- Deleting outdated language.

§121.55 Recipients on probation.

- Clarifying amendment to properly cross reference related provision.

§121.58 Academic progress.

- Increase transparency regarding how progress is determined.

Comments and Responses

One comment was submitted to the Independent Regulatory Review Commission from Richard Dumaresq, Executive Director of the Pennsylvania Association of Private School Administrators, and forwarded to PHEAA by the Independent Regulatory Review Commission (IRRC), and is addressed in Comment #2 and Response #2 below.

IRRC submitted the following comments that were considered by PHEAA in preparing the final-form rulemaking:

Comment #1 Section 121.21. Requirement for higher education grant applicants. – Clarity. Existing language of Subsection (b) concludes with the phrase “...standards of instruction of the public high schools located in this Commonwealth.” To be consistent with other amendments, should this state “public **secondary** schools,” rather than “public **high** schools”?

Response #1

The comment is accepted and the change in terminology has been made in the final language.

Comment #2 Section 121.32. Approved institution in higher education grant program. – Clarity. Regarding Paragraphs (b)(1) and (3), the public commentator suggests the removal of the phrase “or the Council for Higher Education Accreditation” because it is outdated. The Agency should explain why this accreditation is still valid or delete it.

Response #2

The assertion that the reference to the Council for Higher Education Accreditation (CHEA) is outdated is incorrect. Currently, CHEA is a national advocate and institutional voice for self-

regulation of academic quality through accreditation, is an association of 3,000 degree-granting colleges and universities, and recognizes 60 institutional and programmatic accrediting organizations. It remains a valid reference for this section.

Comment #3 Section 121.44. Required family financial data. – Clarity.

As amended the exception in paragraph (b)(2) would state:

If the applicant is in compliance with other criteria established by the Agency for the processing of applicants without regard to parental financial data which generally are the United States Department of Education criteria for financial independence for Title IV Federal student aid programs.

We find this provision to be vague because it does not provide a definitive standard for the exception. First, the phrase “other criteria” should be clearer so that the applicant can understand what criteria he or she must meet to qualify for the exception. Second, the phrase “...which generally are the United States Department of Education criteria...” implies that the Agency may use other criteria. We recommend amending Paragraph (b)(2) so that it provides a clear standard for an applicant to qualify for an exception.

Response #3

The Agency uses the Free Application for Federal Student Aid (FAFSA) developed by the United State Department of Education as the application for the higher education grant program. The language and requirements surrounding independent status may change from year to year and thus PHEAA must be able to be responsive to these variations in the definition. In addition, the variety and complexity of situations that lead to requests for an exception are so diverse, that it would be difficult to encapsulate them in a few sentences.

Comment #4 Section 121.47. State Higher Education Grant Program Manual. – Clarity.

Paragraph (a)(5) begins with the phrase “When applicable, a list of programs of study....” Should this state “... a list of **approved** programs....” to be consistent with the other paragraphs in this section?

Response #4

The comment is accepted and the change in terminology has been made in the final language.

Fiscal Impact and Paperwork Requirements

The final amendments will have no adverse impact on the Commonwealth or its political subdivisions. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

The PHEAA Board of Directors continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

Contact Person

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. No public comments were received within the 30-day time frame. IRRC did comment on the proposed amendments.

Questions regarding this final-form rulemaking may be addressed in writing to Christine Zuzack, State Grant and Special Programs, Pennsylvania Higher Education Assistance Agency, by mail at 1200 North Seventh Street, Harrisburg, PA 17102-1444, or by email at czuzack@pheaa.org. Please reference Pennsylvania Higher Education Grant Program Regulations when submitting comments.

Regulatory Review

Under §5.1(a) of the Regulatory Review Act (71 P.S. §745.5 (a)), on <_____>, the agency submitted a copy of this final-form rulemaking to the IRRC and to the chairpersons of the House and Senate Committees on Education. No comments were received from these committees on the proposed amendments.

In accordance with §5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form regulation was deemed approved by the House and Senate Education Committees on Education on <_____>. IRRC met on <_____> and approved the regulation.

In addition to submitting the final-form rulemaking, the agency provided the IRRC and the House and Senate Committees on Education with a copy of a Regulatory Analysis Form prepared by the agency. A copy of this form is available to the public upon request.

Findings

The Pennsylvania Higher Education Assistance Agency finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 43 Pa.B .6368.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified this Preamble.

Order

The Pennsylvania Higher Education Assistance Agency, acting under the authorizing statutes, orders that:

(a) The regulations of the Agency at 22 Pa Code Chapter 121 are amended to read as set forth in Annex A.

(b) The Agency shall submit this order and Annex A to the Office of Attorney General as required by law.

(c) The Agency shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES L. PRESTON,
President & CEO

TITLE 22. EDUCATION

PART VIII. HIGHER EDUCATION ASSISTANCE AGENCY

CHAPTER 121. STUDENT FINANCIAL AID

SUBCHAPTER A - GENERAL PROVISIONS

MISCELLANEOUS

§121.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Academic year – A period that begins on the first day of classes [or] and ends on the last scheduled day of final examinations and that is a minimum of 30 weeks of instructional time during which, for an undergraduate educational program, a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at a school which measures program length in credit hours or at least 900 clock hours at a school which measures program length in clock hours.

College Entrance Examination – A Nationally-recognized standardized test used to assess college readiness chosen at the Agency's sole discretion to rank students who demonstrate the greatest potential to perform at the highest level of academic achievement.

[SAT – The College Entrance Examination Board's Scholastic Assessment Test.]

Veteran – A person who engaged in active service in the United States Army, Navy, Air Force, Marines or Coast Guard or was a cadet or midshipman at one of the service academies and was released under a condition other than dishonorable, or will be by June 30 of the academic year for which the application is made, or who was a National Guard or Reserve [enlistee] service member who was activated for Federal duty by Presidential order. ROTC students, cadets or midshipmen currently attending the service academies, National Guard or Reserve enlistees who were not activated for Federal duty[,] by Presidential order or those currently serving in the

United States Armed Forces and will continue to serve through June 30 of the academic year for which application is made are not considered veterans.

§121.3. Discrimination prohibited.

The race, religious creed, color, sex, [National]national origin, ancestry, handicap, age or marital status of a student or parent applicant will not be factors of consideration for eligibility except to the extent that adjustments or allowances based on marital status may be necessary within the State Higher Education Grant [and the Federal Family Education Loan Programs]Program to properly reflect the ability of the family to finance costs of education.

§121.4. Denial of eligibility to loan defaulters.

(a) [No award or disbursement of higher education grants will be made to any person who has allowed a loan to mature through purchase from the lender by the Agency under the Loan Guaranty Programs or who has a current loan default record with the Agency under the result of a claim on the loan having been submitted to the Agency by the lender] A higher education applicant who has defaulted on an educational loan guaranteed or reinsured by the Federal government, the government of any state or institution is ineligible for an award or a disbursement of funds unless the applicant has repaid the loan in whole or in part and , in the judgment of the Agency, did not make such repayment merely to gain grant eligibility or unless the applicant otherwise shows good cause why grant eligibility should be reinstated. [Higher education grant may also be denied to any person who has defaulted on an educational loan guaranteed or reinsured by the Federal Government or by the government of any other state or who has defaulted on a loan made by any institution of higher education to finance the costs of education; eligibility in these cases will be determined in the same manner as in the case of Agency-guaranteed loans.] This includes programs administered by the United States Department of Education or PHEAA when awards have been converted to loans due to failure to meet eligibility or service requirements and the loan is in default status.

(b) [Eligibility for a loan guaranty will be denied to any person who has allowed a loan to mature through purchase from the lender by the Agency under the guaranty of a previous loan in the Loan Guaranty Programs or has a current loan default record with the Agency as a result of a claim on the loan having been submitted to the Agency by the lender unless the applicant has repaid the loan in whole or in part and, in the judgment of the Agency, did not make such repayment merely to gain loan eligibility or unless the applicant otherwise shows good cause why loan eligibility should be reinstated. Eligibility for a loan guaranty may also be denied to any person who has defaulted on an educational loan guaranteed or reinsured by the Federal Government or by the government of any other state or who has defaulted on a loan made by any institution of higher education to finance costs of education; eligibility in these cases will be determined in the same manner as in the case of Agency-guaranteed loans.

(c) Applicants denied eligibility under this section shall be entitled to review of such denial in accordance with the procedure for review and appeals as provided in §§121.7 and 121.8 (relating to notice of denial and preliminary review procedures; and applicant and recipient appeals and hearings).

§121.5. Enrollment.

[(a) *Student and parents loans.* For a student or a parent of a student to be eligible for a loan guaranty, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis and be maintaining satisfactory progress as determined by the school.

(b) *Higher education grants.*] To be eligible for a State higher education grant, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis. In addition, the President and Chief Executive Officer may treat students as full-time if unusual circumstances would not permit the student to comply with the exact full-time basis requirements as defined in § 121.1 (relating to definitions). In these instances, the President and Chief Executive Officer will thereafter notify the Board of [his] this action.

§121.7. Notice of denial and preliminary review procedures.

(e) The appeal shall be filed in writing at the [offices of the Agency at] Agency offices in Harrisburg, and shall include the following information:

(1) The name, address and [Social Security number] PHEAA Account Number of the applicant or recipient.

[(f) Use of the prescribed appeal form is not mandatory to initiate an appeal. Any written notice that may reasonably be construed as a request for an appeal, delivered or mailed to a authorized representative or to any office of the Agency within the prescribed 60-day appeal period, advising that the applicant or recipient is aggrieved and apparently desires a review of the determination denying him financial assistance, shall be deemed to initiate and constitute an appeal. Thereafter, the applicant or recipient shall perfect the appeal by filing a completed appeal form within a reasonable time after instructions for filing the appeal form have been delivered or mailed to him at his last known post office address. The date of initiation of an appeal delivered by mail, either on the prescribed appeal form or by any other form of written communication, will be determined from the postmark appearing upon the envelope in which the appeal form or written communication was mailed.

(g) Appeal forms may be obtained from any local field office of the Agency or at the offices of the Agency at Harrisburg. Assistance in completing and filing the appeal form can be obtained at any local field office of the Agency or at the offices of the Agency in Harrisburg.]

§121.8. Applicant and recipient appeals and hearings.

(a) An applicant or recipient who is aggrieved by a determination of the Committee on Appeals denying him eligibility for financial assistance may file an appeal to the Board of Directors.

(c) [Use of the prescribed appeal form is not mandatory to initiate an appeal.] Any written notice that may reasonably be construed as a request for an appeal, delivered or mailed to [a duly authorized representative or to any office of the Agency] PHEAA's Office of General Counsel within the prescribed 15-day appeal period, advising that the applicant or recipient is aggrieved and [apparently desires] requests a review of the determination denying him financial assistance, will be deemed to initiate and constitute an appeal. [Thereafter, the applicant or recipient shall perfect the appeal by filing a completed appeal form within a reasonable time after instructions for filing the appeal form have been delivered or mailed to him at his last known post office address.] The date of initiation of an appeal delivered by mail[, either on the prescribed appeal form or by any other form of written communication,] will be determined from the postmark appearing upon the envelope in which the [appeal form or] written communication was mailed.

SECONDARY SCHOOL GRADUATION

§121.21. Requirement for higher education grant applicants.

(a) A State higher education grant applicant shall be a graduate of or attending an approved secondary school, or be a recipient of a Commonwealth secondary school diploma or other State-issued general equivalency diplomas.

(b) An approved secondary school shall be any public or private secondary school, located in this Commonwealth or elsewhere, including foreign institutions and United States schools overseas, which in the judgment of the Pennsylvania Department of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to the standards of instruction of the public ~~high~~ SECONDARY schools located in this Commonwealth.

(c) For purposes of the State Higher Education Grant Program, an approved secondary school shall also include any home education program that is accredited by any home schooling accreditation agency approved by the Pennsylvania Department of Education. If the home education program lacks the requisite accreditation, certification by the appropriate local school official attesting that the home education program is in compliance with section 1327.1 of the

Public School Code of 1949 (24 P. S. § 13-1327.1) shall be submitted to the Agency by the appropriate local school official.

§121.22. Early admission students.

Student applicants who leave a State approved [senior high] secondary school prior to their senior year and are admitted for the academic year or a portion thereof, immediately following their secondary school studies, to an approved institution of higher learning as early admission students shall be considered as first-year collegiate applicants and in compliance with the ~~high~~ SECONDARY school graduation requirement for purposes of State higher education grant eligibility if the school district of the school that the applicant had attended certified that:

EDUCATIONAL INSTITUTIONS

§121.32. Approved institution in higher education grant program.

(b) To be approved, an institution shall be other than a school of theology or a theological seminary as determined by the Agency, shall be located in the United States[, the Canal Zone, Puerto Rico, the Virgin Islands, American Samoa or Guam] or any of its territories and shall comply with the following:

(1) If the institution is a college or university located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education and shall be accredited or a recognized candidate for accreditation with an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors; if the college or university is located outside this Commonwealth, the institution shall be degree-granting, shall be operated not-for-profit, shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and shall be fully accredited by an accrediting body recognized by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the college or university is conducting its educational program.

(2) If the institution is a hospital school of nursing located within this Commonwealth, the institution shall be initially, provisionally or fully approved by the Pennsylvania State Board of Nursing and shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or other accrediting body recognized by the United States Department of Education for the accreditation of nursing schools; if located outside this Commonwealth, the institution shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and

shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or any other accrediting body recognized by the United States Department of Education for the accreditation of nursing schools.

(3) If the institution is a trade, technical or business school located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education or shall currently be, and shall have been throughout the preceding 24 months, licensed by the Pennsylvania State Board of Private Licensed Schools and shall be accredited by an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors, except that this requirement for licensure and accreditation may be waived by the President and Chief Executive Officer for branch campuses of an institution that [has] have been operating satisfactorily in this Commonwealth for 2 years or more; if the institution is located outside this Commonwealth, it shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the institution is conducting its educational program.

(5) The institution shall have executed and filed with the Agency an agreement on a form provided by the Agency to report or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients of Agency-administered aid who have been convicted in a court of record of a criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution [and] or facts known to persons occupying positions of authority such as the dean of students, director of financial aid [and] or president of the institution [or persons occupying these positions by whatever titles designated by the institution].

§121.33. Approved program of study in higher education grant program.

To be eligible for a State higher education grant, an applicant shall enroll in a program of study approved by the Agency and offered by an institution approved by the Agency under § 121.32 (relating to approved institutions in Higher Education Grant Program) for participation in the State Higher Education Grant Program. An approved program of study shall comply with the following:

(3) If offered at a trade, technical or business school located within this Commonwealth, an approved program of study shall be approved by the Pennsylvania Department of Education or by the Pennsylvania State Board of Private Licensed Schools.

SUBCHAPTER B - HIGHER EDUCATION GRANT PROGRAM

§121.41. Grouping of applicants.

(1) *Group I.* A roster of the top 5,000 prospective freshmen applicants – without breaking ties – listed in descending order by composite score on [the SAT] Nationally-recognized college entrance examinations.

§121.44. Required family financial data.

(b) *Exceptions.* The Agency may determine the eligibility on the applicant without regard to the parents' financial data, waiving its submission, in the following cases:

- (1) If the applicant is a veteran as defined in §121.1 (relating to definitions).
- (2) [If the applicant is at least 24 years of age by January 1 prior to the academic year for which application is made.
- (3) If the applicant is an orphan or ward of the court.
- (4) If the applicant is married or separated.
- (5) If the applicant has legal dependents other than a spouse.
- (6) If the applicant is in compliance with other criteria established by the Agency for the processing of applicants without regard to parental financial data which generally are the United States Department of Education criteria for financial independence for Title IV Federal student aid programs.
- [(7)](3) Other exceptions may be granted by the Administrative Review Committee or the Committee on Appeals in turn on an individual case basis.

§121.47. State Higher Education Grant Program Manual.

(a) [The Agency will publish annually a State Higher Education Grant Program Manual containing: all current financial need analysis procedures established by the Agency; a list of

approved colleges, universities, and hospital schools of nursing located in this Commonwealth; a list of approved programs of study offered by approved trade, technical, and business schools located in this Commonwealth; and a list of the Regional Accrediting Commissions of Higher Education and other agencies upon whose accreditation or approval depends the eligibility for the State Higher Education Grant Program, of institutions of higher learning located outside this Commonwealth, and, where applicable, of programs of study offered by institutions of higher learning located outside this Commonwealth.] The Agency will publish annually a State Higher Education Grant Program Manual containing:

- (1) Current financial need analysis procedures established by the Agency.
 - (2) A list of approved colleges, universities and hospital schools of nursing in this Commonwealth.
 - (3) A list of approved programs of study offered by approved trade, technical and business schools in this Commonwealth.
 - (4) A list of approved institutions of higher learning outside of this Commonwealth.
 - (5) When applicable, a list of APPROVED programs of study offered by institutions of higher learning outside of this Commonwealth.
 - (6) A list of accrediting agencies (bodies) recognized by the Agency for the State Higher Education Grant Program.
- (b) [One copy of such manual will be available for public inspection in the principal office of the Agency and at each regional office.] The State Higher Education Grant Program Manual will be available on the Agency's web site.

§121.48. Limitation on payment of grants.

The Agency will not make payment of, or further payment on, an existing State higher education grant on the basis of an inquiry or request received after August 1 of the calendar year [next commencing] immediately following the academic year for which the payment is sought unless the President and Chief Executive Officer specifically directs that payment be made to prevent grave hardship.

§121.52. Transferring an award.

[(a) A recipient shall be limited to no more than two institutional transfers after the initial disbursement of his higher education grant funds. That is to say, a student who enrolls in institution A may transfer his award to institution B and thereafter to institution C, but will forfeit his award if thereafter he transfers to institution D.

(b)] A recipient may not transfer his award to a nonapproved institution or course of study.

§121.55. Recipients on probation.

A recipient on academic or disciplinary probation shall remain eligible for a higher education grant if the institution of higher learning permits him to continue his studies on at least a half-time basis and he is making satisfactory academic progress as required under § 121.58 (relating to academic progress).

§121.58. Academic progress.

(a) A higher education grant recipient must make normal academic progress, as defined in the State Higher Education Grant Program Manual, from year to year [in order] to retain higher education grant eligibility.



Office of the President and Chief Executive Officer
1200 North Seventh Street, Harrisburg, PA 17102

June 3, 2014

David Sumner
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Regulation #58-24 (IRRC #3020)
Pennsylvania Higher Education Assistance Agency
Student Financial Aid

Dear Mr. Sumner:

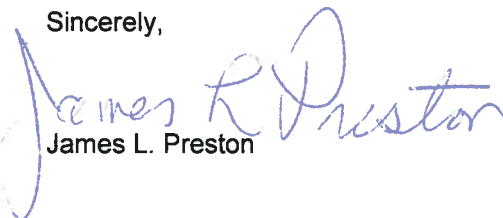
The Pennsylvania Higher Education Assistance Agency (PHEAA) hereby gives notice of the tolling of the above referenced regulation and is simultaneously resubmitting a revised Preamble and Annex A.

By letter dated May 28, 2014, the Independent Regulatory Review Commission (IRRC) noted certain drafting and formatting errors in the submitted regulation and made recommendations consistent with public comments and the proposed regulation published in the *Pennsylvania Bulletin* on October 26, 2013.

Changes to the revised Preamble and Annex A are noted on the following page and are consistent with the recommendations suggested by the Independent Regulatory Review Commission in the May 28, 2014 letter and in subsequent communications with the Commission staff. In addition, PHEAA incorporated additional changes that were not called out in IRRC's communication with PHEAA. These additional changes insure that the regulation as submitted corresponds completely with the version published in the *Pennsylvania Bulletin*.

I trust you will find the revised Preamble and Annex A ready for final publication. If you have any questions, please do not hesitate to contact me at 717.720.2202 or jpreston@pheaa.org.

Sincerely,



James L. Preston

cc: Paul Clymer, House Education Committee
Mike Folmer, Senate Education Committee

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

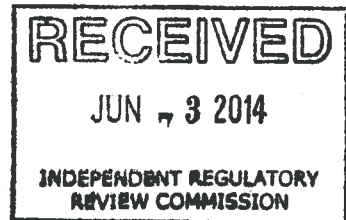
I.D. NUMBER: 58-24

SUBJECT: State Grant and Special Programs

AGENCY: Pennsylvania Higher Education Assistance Agency

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions



FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6-3-14	<i>Eileen Krick</i>	HOUSE COMMITTEE ON EDUCATION MAJORITY CHAIRMAN
6-3-14	<i>James Binzel</i>	SENATE COMMITTEE ON EDUCATION MAJORITY CHAIRMAN
6/3/14	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)