

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

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

(1) Agency: Pennsylvania Higher Education Assistance Agency

(2) Agency Number: 58

Identification Number: 24

IRRC Number: 3020

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(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):

Primary Contact:

Christine Zuzack

T - 717.720.2368

F - 717.720.3786

czuzack@pheaa.org

Vice President, State Grant and Special Programs

100 North Seventh Street

Harrisburg, PA 17102-1444

Secondary Contact:

Gerald Smith

T - 717.720.7544

F - 717.720.3911

gsmith@aessuccess.org

Attorney, AES/PHEAA Legal and Compliance Service Division

1200 North Seventh Street

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.

The rulemaking 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 proposed rulemaking will update references and clarify existing regulations. These proposed revisions do not impact program eligibility or participants.

(11) 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.

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

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

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

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

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) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Communications were provided to the postsecondary education community which includes some for-profit institutions that are small businesses.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The proposed regulatory changes affect students and postsecondary schools. There were approximately 200,000 State Grant awards in 2012-13 with 1,200 participating institutions. The proposed regulations provide clarity and modernization.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The proposed regulatory changes affect students and postsecondary schools. There were approximately 200,000 State Grant awards in 2012-13 with 1,200 participating institutions.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

There would be no costs or savings to the regulated community. Clarity and simplification are the benefits.

(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.

(19) 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.

(20) Provide a specific estimate of the costs and/or savings to the **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

(21) Provide a specific estimate of the costs and/or savings to the **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.

(22) For each of the groups and entities identified in items (19)-(21) above, 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 proposed rulemaking would not require any legal, accounting or consulting procedures or any additional recordkeeping or other paperwork.

(23) 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: | | | | | | |
| 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 |

(23a) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 2009-10 Appropriated | FY -2 2010-11 Appropriated | FY -1 2011-12 Appropriated | Current FY 2012-13 Appropriated |
|--------------------------------|---|---|---|--|
| Higher Education Grants | \$403,632,000 | \$388,313,000 | \$380,935,000 | \$344,888,000 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of

the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There are no adverse effects on small businesses.

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

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

(26) 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 the proposal addresses technical amendments and clarity.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

(28) 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.

Data is not the basis of these proposed regulatory changes.

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

- | | |
|---|---------------------------|
| A. The date by which the agency must receive public comments: | 30 days after publication |
| B. The date or dates on which public meetings or hearings will be held: | June 1, 2011 |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Within 2 yrs of publ. |
| D. The expected effective date of the final-form regulation: | Final Promulgation |
| E. The date by which compliance with the final-form regulation will be required: | N/A |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

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

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(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

BY: _____
(DEPUTY ATTORNEY GENERAL)

AUG 12 2013

DATE OF APPROVAL

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

PHEAA
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 58-24

DATE OF ADOPTION: June 20, 2013

BY: _____
James L. Preston

TITLE: President and CEO
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: _____
(General Counsel, PHEAA)

6/26/13

DATE OF APPROVAL

Check if applicable
Copy not approved.
Objections attached.

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

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Higher Education Assistance Agency

22 PA. CODE, CHAPTER 121

PROPOSED 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 (SGSP) department, proposes amended 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 Proposed 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 that are proposed throughout the rulemaking, there are particular proposed changes as described below:

Description of the Proposed Amendments

§ 121.1 Definitions .

- Update definition of "Academic year" ending date to coincide with the end of final examinations;
- Update definition of College Entrance Examination to recognize the alternative examinations used by higher education institutions;
- Delete 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.

-Update and technical edits to remove federal student loan reference because it is no longer relevant to the program.

§ 121.4 Denial of eligibility to loan defaulters.

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

§ 121.5 Enrollment.

- Deletion of outdated language.

§ 121.7 Notice of denial and preliminary review procedures.

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

§ 121.8 Applicant and recipient appeals and hearings.

- Update and deletion of 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 more the 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 nationally recognized college placement examinations.

§ 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.

Fiscal Impact and Paperwork Requirements

The proposed 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.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on _____, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Education Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations, or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations, or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

On June 1, 2011, PHEAA solicited comments from financial aid administrators at all State Grant eligible post-secondary institutions in Pennsylvania and the Pennsylvania State Grant Advisory Committee. No substantive comments were received.

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to Legal and Compliance Services, Pennsylvania Higher Education Assistance Agency, by mail at P.O. Box 8147, Harrisburg, PA 17102-8147, or by email at czuzack@pheaa.org, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference Pennsylvania Higher Education Grant Program when submitting comments.

Effective date

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

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 – any of a number of nationally recognized standardized tests 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, [N]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 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 any 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. This would include, but is not limited to, programs administered by the U.S. Department of Education or PHEAA where awards have been converted to loans due to failure to meet all eligibility or service requirements and the loan is in default status.

[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.]

(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)] (b) 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 there after notify the Board of 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 offices [at] 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 PHEAA's Office of General Counsel [a duly authorized representative or to any office] of the Agency 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 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 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 (CHEA) 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 (NLNAC), the Commission on Collegiate Nursing Education (CCNE), or any 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 (NLNAC), the Commission on Collegiate Nursing Education (CCNE), 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.

(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 placement 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 the following:

- i) all current financial need analysis procedures established by the Agency;
- ii) a list of approved colleges, universities, and hospital schools of nursing located in this Commonwealth;

- iii) a list of approved programs of study offered by approved trade, technical, and business schools located in this Commonwealth;
- iv) a list of approved institutions of higher learning located outside this Commonwealth
- v) where applicable, a list of programs of study offered by institutions of higher learning located outside this Commonwealth
- vi) [and] a list of accrediting agencies (bodies) recognized by the Agency [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].

(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 program manual will be available on the Agency's website.

§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 non-approved 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 in Section 121.58.

§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.

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL**

August 12, 2013

RE: Pennsylvania Higher Education Assistance Agency Regulation #58-24

TO: Jason Swartley
Chief Counsel
Pennsylvania Higher Education Assistance Agency

FROM: Robert A. Mulle 
Chief Deputy Attorney General
Legal Review Section

The following regulation is hereby approved for form and legality pursuant to the Commonwealth Attorneys Act.

Pennsylvania Higher Education Assistance Agency
22 Pa. Code Ch. 121
State Grants & Special Programs
PROPOSED FORM

RAM:mlm
SR-49324-ZF3B

cc: Leslie A. Lewis Johnson, Esq.

**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

2013 AUG 22 PM 2:47

RECEIVED
IRRC

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|---------|---------------------|--|
| 8/22/13 | <i>Eileen Krick</i> | HOUSE COMMITTEE ON EDUCATION MAJORITY CHAIRMAN |
| 8/22/13 | <i>Janey Smey</i> | SENATE COMMITTEE ON EDUCATION MAJORITY CHAIRMAN |
| 8/22/13 | <i>Stacy F. H</i> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| _____ | _____ | ATTORNEY GENERAL (for Final Omitted only) |
| 8-22-13 | <i>Samuel Hines</i> | LEGISLATIVE REFERENCE BUREAU (for Proposed only) |