



September 15, 2009

Ms. Jessica Finkel  
U.S. Department of Education  
1990 K Street NW, Room 8031  
Washington, DC 20006–8502

RE: Docket ID ED–2009–OPE–0005

Dear Ms. Finkel,

On behalf of the more than 976 members from 316 colleges of the Western Association of Student Financial Aid Administrators (WASFAA), we thank you for the opportunity to comment on the proposed regulations.

WASFAA represents postsecondary educational financial aid professionals from Alaska, Arizona, California, Idaho, Nevada, Oregon, Washington, Hawaii, Guam, the Northern Marianas Islands and the Freely Associated Nations of the Pacific. Our membership and representative committees have been carefully studying the proposed rules and would like to offer our observations of the proposed rules and their impact upon students attending our institutions.

First, we applaud the individuals from all represented groups for their work in the negotiated rule making sessions and thank them for their dedicated service to their organizations and to the students we all serve. We feel the majority of the proposed regulations are well crafted.

We do, however, have some concerns about the proposed regulations for year-round Pell. We support the proposed regulatory amendments to sections §690.63, §690.64, and §690.80 but want to draw your attention to a very serious, and we believe unintended, problem with the proposed regulations in §690.67. Specifically, the proposed regulations in §690.64 would require institutions to pay Pell to students from whichever award year (in a crossover situation) would result in a greater payment to the student. Further, the proposed regulations in §690.67 would require that a student complete the credit or clock hours of their first academic year within the award year before being eligible for the second scheduled Pell award.

This creates a practical dilemma for many students who do wish to accelerate their progress towards a degree as the Department wishes to encourage but are faced with the life reality that full-time attendance in a summer crossover period is not feasible. Also, at many colleges, summer

sessions are structured in such a way that students cannot take more than two courses. These two proposed regulations (§690.64 and §690.67) operating together would force many schools to pay Pell to students in a summer crossover period that precedes the traditional Fall enrollment period (i.e. a leading summer). With the assumption that the student continues their enrollment as a full-time student in the Fall enrollment period, it appears that these same students will not be able to access the second scheduled award in the spring enrollment period and will be “cut off” in the traditional academic year (if they are enrolled more than half-time).

Schools will be obligated to begin counseling students NOT to accept Pell in a leading summer crossover period where the student attends less-than full-time in order to avoid jeopardizing their Pell awards in the traditional academic year. Of course, our membership feel that the mixed messaging to students in that regard would be harmful to students and tend to make the federal financial aid system more difficult to navigate. This scenario would, in fact, have the opposite effect of the stated goals of the Department for many students and would clearly discourage degree acceleration under any definition. We, along with our colleagues nationally want to continue to advocate for simpler, more transparent processes in order to encourage access to higher education – a view that we believe is universally shared by the Congress, the Department, the current Administration, and of course students.

Additionally, under the current proposed regulations, we believe that the following situations would disqualify students from year-round Pell awards:

- Students attending more than half time, but less than full time.
- Non-traditional students, such as vocational or community college students in non-traditional programs.
- Students who take classes year round, and the anticipated graduation date is not considered accelerated.
- Students who normally take classes full time, and have dropped below full time for one semester or term.

The proposed changes place restrictions on students, who demographically, may have demonstrated higher need (i.e. those students who must work full time and attend school, students in non-traditional programs where the opportunity to accelerate graduation date is not available). We feel that this undercuts the basic principles of Title IV need based financial aid. These proposed regulations, while helpful to the students that will qualify, will leave a great many students with LESS ACCESS to the Pell Grant – the foundational grant program of the federal financial aid system.

In conclusion, we believe that the proposed regulations in §690.67 represent an unintentional departure from both the Congress’ intent for the law and the Department’s own goals for encouraging students to complete their degree or certificate programs at an accelerated rate. Additionally, we believe the proposed regulations in §690.67 introduce concepts that do not exist within the law and, by extension, may cause the Department to exceed its regulatory authority by fundamentally changing the issues that the Congress intended to address in the law.

Example: The proposed regulations introduce the concept of “successful completion” which does not exist in the law. The law simply requires that the student “is enrolled.” Similarly, the law requires enrollment of “more than half-time for a period of more than one academic year . . .” while the proposed regulation omits the half-time enrollment minimum concept all together.

Of course, enrollment for more than one academic year (with a half-time qualifier) is a fundamentally different concept than successful completion of one academic year (omitting the half-time qualifier). The result will be a modification (not operational clarification as is the intent of regulation) of the law in practical application at our institutions.

We hold that our membership, as well as the Department and the Congress, believe that year-round Pell should encourage students to complete their degree programs within a shorter time period than the regularly scheduled completion time. We do not believe that the proposed regulatory language accomplishes that common goal.

Accordingly we ask that the Department and the Secretary consider clarifying and/or modifying the proposed regulations in §690.67 to ensure that no student will be denied access to a Pell grant who would have been eligible prior and to ensure that the proposed regulations do not more severely restrict access to certain groups of students who do not have “traditional” attendance patterns. We request that the final regulatory language for §690.67 read:

*§690.67: Receiving Up to Two Scheduled Awards During a Single Award Year.*

*(a) Eligibility. An institution shall award up to the full amount of a second Scheduled Award to a student in an award year if the student —*

*(1) enrolls at least as a half-time student for the credits or clock hours equivalent to one academic year within the award year and*

*(2) is enrolled at least as a half-time student for the credits or clock hours beyond the first academic year within the award year.*

We believe that the language above more precisely reflects the concepts that exist within the law, avoids introducing concepts that do not exist within the law, and avoids unintended and unfair restrictions upon certain students. In conjunction with the other proposed regulations, this language will help us accomplish the goal of encouraging accelerated degree/certificate completion.

As an endnote, we’ve also identified a technical correction unrelated to the Pell discussion above. Specifically, Appendix C to Subpart B, line 7, of the Federal Register (page 42434 – PDF page 56) has a balance of “\$ ,300.00”; we believe it should be corrected to “\$3,300.00”.

Thank you once again for your consideration of our comments on the proposed regulations.

Sincerely,  
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CC: Representative Miller, Chairman of House, Education and Labor Committee  
Senator Harkin, Chairman Health, Education, Labor & Pension Committee