



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,  
NY 12234

**TO:** Higher Education Committee  
**FROM:** Joseph P. Frey   
**SUBJECT:** Amendments to the Regulations of the Commissioner of Education Proposed by the Inter-Agency Task Force on the Tuition Assistance Program (TAP)  
**DATE:** February 28, 2011

**AUTHORIZATION(S):**

### SUMMARY

#### Issue for Discussion

Should the Board consider proposals to amend the Commissioner's Regulations on the Tuition Assistance Program (TAP) developed by the Inter-Agency Task Force on the Tuition Assistance Program?

#### Proposed Handling

This matter will come before the Higher Education Committee for discussion at its March 2011 meeting.

#### Background Information

The Education Law establishes the Tuition Assistance Program (TAP) and makes key provisions governing its operation. However, it also requires that the Commissioner adopt regulations in specific areas of the program's operation and that the President of the Higher Education Services Corporation adopt regulations in other specified areas. For example, it charges the Commissioner to "promulgate regulations defining the following terms by which the president can determine a student's eligibility for student aid and loan programs: (a) full-time study or attendance; (b) part-time study or attendance; (c) full-time and part-time accelerated study beyond the regular program of study for the academic year; (d) permissible use of general and academic performance awards; (e) matriculation; and (f) loss of good academic standing." Another statutory provision requires the Commissioner to "promulgate regulations by which the president shall determine whether a student has entered an approved

program during the academic year prior to the normal effective date of the student's award.”

At its January meeting, the Committee reviewed an overview of TAP from its 1961 predecessor, the Scholar Incentive program, through the 2009-10 academic year. The item identified significant changes in TAP and their effect on student financial assistance. The Committee was informed that an Inter-Agency Task Force on the Tuition Assistance Program would submit its recommended changes to the TAP regulations. Over time, the Commissioner’s Regulations have been found to lack clarity and the degree of precision needed for institutions to understand their obligations in participating in the program.

The Task Force included representatives from the State University of New York, The City University of New York, the Commission on Independent Colleges and Universities, the Association of Proprietary Colleges, the Higher Education Services Corporation, the Division of the Budget, the New York State Financial Aid Administrators Association, and the Office of the State Comptroller. Over an 18 month period beginning in the summer of 2009, it reviewed the TAP regulations to clarify and simplify their provisions in order to improve institutional compliance with their requirements.

## I. Proposed Changes to the Commissioner’s Regulations.

The Task Force’s recommended amendments to the TAP regulations fall in three key areas: (1) **Full-time and part-time study and remedial workload**; (2) **Program pursuit and academic progress**; and (3) **Matriculated status**. The Task Force selected these areas because it found that these regulatory provisions caused significant confusion in the field when implementing them and were most often cited in audits resulting in disallowances. The regulations listed below include the suggested change and the corresponding impact each suggested change will have.

### 1. §145-2.1 Full-time and part-time study and remedial workload.

(1) For State student financial aid programs, except the supplemental tuition assistance program (STAP), *full-time study*, where required by law, shall mean enrollment **in courses applicable to the students’ program**, for at least 12 semester hours for a semester of not less than 15 weeks **or 100 calendar days**, inclusive of examination periods; or eight semester hours a quarter; or, in programs not organized on a semester or quarter basis, 24 semester hours for an academic year of not more than 12 months or the equivalent, as determined by the commissioner. **In determining full-time or part-time status, credit-bearing courses must be applicable to the student’s program of study as a general education requirement, major requirement, or specified or free elective. Credit-bearing courses not applicable to the student’s program of study cannot be included as part of the minimum full-time study requirement (12 semester hours or 8 semester hours a quarter).**

A student shall be considered full-time for a program organized on an academic-year basis only if the student has filed a plan of study with the institution for the entire academic year. Except as otherwise defined in paragraph (4) of this subdivision. *Part-time study*, for general awards, other than tuition awards for

~~Vietnam~~ veterans and tuition awards for part-time undergraduate students, and for academic performance awards, shall mean enrollment **in courses applicable to the students' program**, for at least 6, but less than 12, semester hours or the equivalent for a semester of not less than 15 weeks **or 100 calendar days**, inclusive of examination periods; or at least four, but less than eight, semester hours a quarter.

(4) For purposes of section 661(d)(4) of the Education Law, for a student with a disability, as defined in 42 USC 12102 (2) (United States Code, 1994 edition, volume 23; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; 1995 available at the Office of Higher and Professional Education, Education Building Annex, Room 979, Albany, NY 12234), part-time study or attendance shall mean enrollment **in courses applicable to the students' program**, for at least three but less than 12 semester hours per semester or the equivalent, or at least two but less than eight semester hours per quarter, or it's equal.

(e) Where full-time ~~or part-time~~ study is required, it shall be required during the semester **if the graduating student is taking at least one course needed for graduation requirements and other courses which are not necessary for graduation but meet full-time credit requirements (12 semester hours or the equivalent,)** in the same manner as for any other semester of study, even if not necessary in order to complete graduation requirements. Full-time study shall not be required for recipients of Regents college **academic performance award** scholarships during their last semester of eligibility if part-time study during such semester would be sufficient to complete the approved course of study.

~~(f) Upon presentation of satisfactory medical evidence to substantiate that serious illness or mental or physical disability precludes attendance on a full-time basis, work performed during two or more terms of study may be approved as equivalent to a regular term for scholarship, tuition assistance program or other benefits.~~

### Problems Corrected by the Proposed Change

These suggested changes relate to the administration of TAP funds to ensure that students receiving awards are using them in the pursuit of an approved program of study. One change seeks to specify that the course enrollments, in order to be eligible for coverage by TAP, must be applicable to the student's declared program. There is a further need that the courses be either general education requirements, major requirements, or counted as electives, and that any courses that do not meet these requirements in the academic program cannot be used in computing TAP eligibility. The change identifies that enrollment for the purposes of part-time eligibility must also be in courses that are part of the academic program.

Additionally, there is a need to clarify that 100 calendar days would be used in computing 15 weeks of the academic semester. This would provide consistency across institutions.

The change corrects an obsolete reference to Vietnam in the definition of eligible veterans, in recognition of veterans from other periods of service who are eligible for aid under the Veterans Tuition Awards Program.

The current regulation also identifies the NYS Office of Higher Education as the repository for federal definitions for the definition of a disability. Given the changes in technology and information access, the Task Force believes it is not longer necessary for this office to serve as repository of federal definitions. However, Executive Law Section 102 provides for SED maintaining the federal statute.

The definition of part-time study in this section is proposed to be eliminated as redundant and potentially confusing. As in two paragraphs in the previous regulatory section §145-2.1 above, Task Force members felt there is a need to identify that the enrollment for the purposes of TAP eligibility must be in courses that are part of the academic program.

Given the use of TAP throughout the full period of a student's academic pursuit, there is a need to broaden to all programs an existing limited exception to the requirement that 12 credits must be part of the academic program during a student's final semester, because it is possible that a student while eligible for TAP, may have completed most of the academic requirements and not have a remaining 12 credits of requirements during the last academic semester.

The change also would repeal subdivision (f) of §145-2.1, thus eliminating the use of reviewed medical evidence to document serious physical or mental disability, and allow two or more part-time semesters to meet the full-time requirement. This subdivision was raised as one that was more confusing for financial aid officers in administration than it is beneficial to students. There exist on campuses processes for documenting disabilities that are more thorough for the academic institution and more beneficial to the student than the continuation of subdivision (f).

## 2. §145-2.2 Program pursuit and academic progress.

...

(b) State awards first received during academic year 1981-1982, and thereafter.

(1) Part-time study, academic requirements.

...

(iv) Except as provided for in subparagraph (v) of this subdivision, to determine whether a student receiving an award is making satisfactory progress toward the successful completion of his or her program's academic requirements, each institution shall **use the standards established in Section 665, if applicable. Institutions may** establish and apply a **higher** standard of satisfactory academic progress which includes required levels of achievement to be measured at stated intervals. Criteria for achievement shall include, but need not be limited to:

....

(v) The provisions of subparagraphs (iii) and (iv) of this subdivision may be waived once for an undergraduate student and once for a graduate student if an institution certifies, and maintains documentation, that such waiver is in the best interests of the student. Prior approval by the commissioner of the criteria and

procedures used by an institution to consider and grant waivers shall not be required; **however, the institution must have its criteria and procedures for waivers available to students and the public, either in printed material or on its website.** The commissioner may review such criteria and procedures in use, and require an institution to revise those found to be not acceptable.

### Problems Corrected by the Proposed Change

In an effort to make the regulatory requirements clearer to financial aid officers in implementing the intent that students be assisted in completing their academic program there are two general types of changes to this section. The first relates the standards in Section 145-2.2 to those in Section 665 of the Education Law regarding satisfactory academic progress, in an effort to achieve regulatory consistency while still providing institutional flexibility in applying a higher standard. Additionally, the amendment would allow a waiver of subparagraphs (iii) and (v) of subdivision (b) of such section of the Commissioner's regulations, regarding satisfactory academic progress. The waiver would allow the student, once during their undergraduate career and once during their graduate career to waive the requirements for satisfactory academic progress. However, the institution must have written criteria that are publicly available which would be reviewable and held as the institutional standard during TAP administration follow-up and audit. The desire to have consistent institutional policies available for review was requested through discussion with the auditors of the Office of the State Comptroller.

### **3. §145-2.4 Matriculated status.**

(e) Students enrolled under permit from other **degree granting** institutions where they are matriculated may be certified as matriculated by the **degree granting** school attended. **The study and approval for the courses attempted must be approved in advance. In order to certify eligibility, the college of matriculation must receive all grades and tuition costs from the college attended.**

(f). **Matriculated students may defer declaration of a specific major and still be considered to be enrolled in one or more of an institution's approved (registered) programs provided that the matriculating institution approves the students deferment. For financial aid purposes, a student must declare a major within 30 days of the end of the institution's add/drop period of the sophomore year in a 2-year program or within 30 days of the end of the add/drop period of the junior year of a baccalaureate program so that the student is able to complete the degree in the normal time frame. In each case, the cumulative transcript for the student must designate the student's enrollment in a program that has been registered by the State Education Department and appears on the Inventory of Registered Programs as a program eligible for State student aid. While a declaration must be made at specified points as noted above, students are; of course, free to change their choice of major.**

## Problem Corrected by the Proposed Change

Requested changes in this section seek to clarify issues related to cross enrollment, the declaration of a major, and eligibility for TAP during the process of changing a major. The first proposed amendment explains that a cross-enrolled student must be certified by an eligible degree granting institution participating in TAP, which must be the student's home institution for eligibility of financial aid. For example, if a student is attending an institution abroad for one year, the student may defer declaring his or her major and still be considered to be enrolled in one or more of an institution's approved registered programs providing the matriculating institution approves the student's deferment. This change still allows the student to declare his or her major for the purposes of TAP eligibility providing he or she meet the requirements in the proposed changes above.

The proposed change would also provide direction regarding the designation of a student's major and the time line needed in declaring a major. The declaration of a major plays a significant role in financial aid eligibility because the courses the student must take to be eligible for TAP must be part of the registered academic program. Finally, it is important to provide financial aid officers and those involved in TAP administration and audit with guidelines on the eligibility for TAP when a student is changing majors, as this period often results in TAP disallowances. It is the goal of this regulatory change to clarify the eligibility for TAP during this period and outline the documentation advising, recording and implementing the change in academic major. This creates more specific guidelines while allowing for flexibility so that students are not disqualified unnecessarily.

## **II. Proposed Change to the Education Law.**

A subgroup of the Task Force reviewed selected sections of the proposed Education, Labor and Family Assistance Article VII bill relating to TAP eligibility for students enrolled in a remedial program and their placement on a specific satisfactory academic progress (SAP) chart. It should be noted that the Higher Education Services Corporation, the Division of the Budget and the Office of the State Comptroller were not part of these deliberations and do not prescribe to these recommendations regarding the requirements for remedial students. The subgroup is recommending the following change to the amendment the bill would make to the Education Law:

For purposes of paragraph c of this subdivision, a student enrolled in a remedial program shall mean a student (a) whose scores on recognized college placement exam or nationally recognized standardized exam indicated the need for remediation for at least two semesters, as certified by the appropriate college official and approved by the commissioner, or (b) who was enrolled in at least 6 semester hours of non-credit remedial courses, as approved by the commissioner, in the first term they received a Tuition Assistance Program award in an approved program; or (c) who is or was enrolled in the Higher Education Opportunity Program (HEOP), the Educational Opportunity Program (EOP), the Search for Education, Elevation and Knowledge (SEEK), or the College Discovery (CD) program. Students

who qualify for any of these stated conditions remain on the 2006 satisfactory academic progress (SAP) chart.

This change would act as a safety net for students who may need remediation while at the same time requiring them to maintain satisfactory academic progress toward their degree. It changes "remedial student" to a student enrolled in a remedial program. It also reduces the total required number of non-credit remedial courses from up to 15 semester hours (up to nine in their first term and up to six in their second term) in the first two terms to at least six semester hours as stated above or where the placement test indicates that the student needs remediation in one content area over multiple terms.

This change was not made to the Article VII bill during the 21-day amendment period. However, it is recommended that the Regents legislative proposal include the language.