



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

TO: Higher Education Committee

FROM: John D'Agati

SUBJECT: Proposed Amendment of Section 27-1.1 of Rules of the Board of Regents Relating to Student Eligibility for the Higher Education Opportunity Program

DATE: August 29, 2011

AUTHORIZATION(S):

SUMMARY

Issue for Decision

Should the Board of Regents amend Section 27-1.1 of the Rules of the Board of Regents relating to student eligibility for the Higher Education Opportunity Program?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment will be presented to the Higher Education Committee for recommendation and to the Full Board for adoption at the September Regents meeting.

Procedural History

The proposed amendment was discussed by the Higher Education Committee at the June Regents meeting. A Notice of Proposed Rule Making and a Notice of Revised Rule Making concerning the proposed amendment were published in the State Register on June 29, 2011 and July 13, 2011, respectively. Supporting materials are available upon request from the Secretary of the Board of Regents.

Background Information

The proposed rule is needed in order to update the current criteria for determining student economic eligibility for the Higher Education Opportunity Program by: (1) taking into account inflationary conditions and changes in annual income; (2) accounting for New York State and local taxes and regional maintenance costs; (3) assuring consistency across the State-supported postsecondary opportunity programs; and (4) maintaining the continuing linkage of these eligibility criteria with federally approved methods of needs analysis.

The amendment will update the existing definition of "economically disadvantaged," which has become outdated because of inflationary factors. It will prevent a reduction in the pool of eligible students due to inflation and other factors. The amendment will ensure that the appropriate pool of students will be eligible for the program.

The proposed changes in the economic income guidelines will apply to students first entering college on or after July 2012. The income level for the household of one was determined based on 185 percent of an income at poverty level as established by U.S. Department of Health and Human Services poverty guidelines. These guidelines are based on poverty measures issued by the U.S. Census Bureau.

The proposed amendment is also needed to update the definition of an independent student, to be more consistent with the federal definition of independent student for purposes of the needs analysis for federal student financial aid programs.

The proposed amendment was developed by a statewide task force of representatives from the City University of New York, the State University of New York, independent colleges and universities and the State Education Department's Office of Higher Education. This task force met and reached a consensus on the proposed amendment.

Recommendation

VOTED: That subdivision (b) of section 27-1.1 of the Rules of the Board of Regents be amended, as submitted, effective October 5, 2011.

Timetable for Implementation

If adopted at the September Regents meeting, the proposed amendment will become effective on October 5, 2011.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 207 and 6451 of the Education Law.

Subdivision (b) of section 27-1.1 of the Rules of the Board of Regents is amended, effective October 5, 2011, as follows:

(b) Economically disadvantaged.

(1) For students first entering college between July 1, 2005 and June 30, 2012.

A student is economically disadvantaged if he or she is a member of a household supported by one member thereof with a total annual income which does not exceed the applicable amount set forth in the following tables; or of a household supported solely by one member thereof who is employed by two or more employers at the same time, if the total annual income of such household does not exceed the applicable amount set forth in the following tables for the number of members in the household plus the second job allowance; or of a household supported by more than one worker thereof, or a household in which one worker is the sole support of a one-parent family, if the total annual income of such household does not exceed the applicable amount set forth in the following tables for the number of members in the household plus the employment allowance. For the purposes of this subdivision, the number of members of a household shall be determined by ascertaining the number of individuals living in the student's residence who are economically dependent on the income, as defined in subdivision (c) of this section, supporting the student.

[Table I

For students first entering college between July 1, 2005 and June 30, 2008

Number of members in household (including	Total annual income in preceding calendar year
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head of household)

1	\$14,100
2	19,600
3	22,350
4	27,800
5	32,850
6	38,550
7 or more	42,900 plus \$4,350 for each family member in excess of 7
Second Job Allowance	\$1,800
Employment Allowance	\$4,800

Table II

For students first entering college between July 1, 2008 and June 30, 2009

Number of members in household (including head of household)	Total annual income in preceding calendar year
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1	\$15,140
2	20,390
3	25,650
4	30,900
5	36,150
6	41,410

7 or more	46,660 plus \$5,250 for each family member in excess of 7
Second Job Allowance	\$2,630
Employment Allowance	\$5,250

Table III

For students first entering college between July 1, 2009 and June 30, 2010

Number of members in household (including head of household)	Total annual income in preceding calendar year
1	\$15,590
2	21,000
3	26,420
4	31,830
5	37,240
6	42,650
7 or more	48,060 plus \$5,410 for each family member in excess of 7
Second Job Allowance	\$2,710
Employment Allowance	\$5,410]

Table [IV] !

For students first entering college [on or after] between July 1, 2010 and June 30, 2012

Number of members in household (including head of household)	Total annual income in preceding calendar year
1	\$16,060
2	21,630
3	27,210
4	32,790
5	38,360
6	43,960
7 or more	49,500 plus \$5,570 for each family member in excess of 7
Second Job Allowance	\$2,790
Employment Allowance	\$5,570

The income figures in [Tables I, II, III, and IV] Table I of this paragraph apply to the student applicant's income only when he or she is an independent student. For purposes of this Part, an independent student means a student who:

- (i) is 24 years of age or older by December 31st of the program year; or
- (ii) is an orphan or ward of the court (A student is considered independent if he or she is a ward of the court or was a ward of the court until the individual reached the age of eighteen); or
- (iii) is a veteran of the Armed Forces of the United States who has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or

Coast Guard and was released under a condition other than dishonorable; or

(iv) is a married individual; or

(v) has legal dependents other than a spouse; or

(vi) is a student for whom an opportunity program and financial aid

administrator has made a satisfactory documented determination of independence by reason of other extraordinary circumstances.

(2) For students first entering college on or after July 1, 2012, a student is economically disadvantaged if he or she is a member of a household where the total annual income of such household is equal to or less than 185 percent of the amount under the annual United States Department of Health and Human Services poverty guidelines for the applicant's family size. Federal poverty guidelines are published annually by the Department of Health and Human Services in the Federal Register. The income guidelines in this paragraph apply to the student applicant's income only when he or she is an independent student. For purposes of this Part, an independent student means a student who:

(i) is 24 years of age or older by December 31st of the program year; or

(ii) is an orphan or ward of the court (A student is considered independent if he or she is a ward of the court or was a ward of the court until the individual reached the age of eighteen); or

(iii) is a veteran of the U.S. Armed Forces; or

(iv) is currently an emancipated minor as determined by a court; or

(v) is currently in legal guardianship as determined by a court; or

(vi) is a married individual; or

(vii) has legal dependents other than a spouse; or

(viii) is a student for whom an opportunity program and financial aid

administrator has made a satisfactory documented determination of independence by reason of other extraordinary circumstances;

[(2)] (3) A maximum of 15 percent of the students admitted to a HEOP program by an institution may come from households whose income exceeds the household scale listed in the applicable table in paragraph (1) of this subdivision, provided that such institution has established to the satisfaction of the commissioner that unusual and extenuating circumstances as defined in this paragraph, exist for each such student. Prior to admitting any such student, the institution shall submit to the commissioner such documentation of unusual and extenuating circumstances as the commissioner may require. Such documentation shall be kept on file by the institution at which such students were enrolled, and shall be corroborated by a disinterested, reliable party. For purposes of this paragraph, unusual and extenuating circumstances shall be limited to the following:

(i) . . .

(ii) . . .

(iii) . . .

(iv) families which must maintain two households in order to maintain employment, one for a wage earner and one for dependents; [or

(v) families where the family contribution as computed from base year financial data by a United States Education Department approved needs analysis system indicates no contribution other than the minimum expectation from student income for independent students or a zero parental contribution for dependent students.]

[(3)] (4) . . .

[(4)] (5) . . .

[(5)] (6) The following shall be acceptable documentation of paragraphs (1) through (3) of this subdivision:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v). . .

(vi) . . .

(vii)

[(viii) Documentation of zero household contribution: the needs analysis output form from one of the United States Education Department's approved needs analysis systems.]