



To: Higher Education Committee

From: John L. D'Agati

Subject: Proposed Amendments to the Regulations of the Commissioner of Education Relating to the Eligibility Criteria for the Tuition Assistance Program

Date: February 7, 2012

Authorizations:

### **SUMMARY**

#### **Issue for Decision**

Should the Board of Regents amend sections 145-2.1, 145-2.2 and 145-2.4 of the Regulations of the Commissioner of Education relating to the eligibility criteria for the Tuition Assistance Program?

#### **Reason(s) for Consideration**

Review of Policy.

#### **Proposed Handling**

The proposed amendment will come before the Higher Education Committee for action at its February 2012 meeting.

#### **Procedural History**

The proposed amendment was discussed at the December 2011 Regents meeting. A Notice of Proposed Rule Making concerning the proposed amendment was published in the State Register on December 14, 2011. Supporting materials are available upon request from the Secretary to the Board of Regents.

## Background Information

Section 661 of the Education Law establishes the Tuition Assistance Program (TAP) and contains key provisions governing its operation. This section 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 March 2011 meeting, the Higher Education Committee was notified that, in the summer of 2009, an Inter-Agency Task Force was convened to review the TAP regulations in order to provide recommendations to clarify and simplify the regulatory provisions in order to improve institutional compliance with these requirements.

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. The Task Force's recommended amendments to the TAP regulations fall in three key areas: (1) **Full-time and part-time study**; (2) **Program pursuit and academic progress**; and (3) **Matriculated status**.

## Problems Corrected by the Proposed Changes

The first suggested change relates to the administration of TAP funds to ensure that students receiving awards are using them in the pursuit of an approved program of study. The proposed amendments specify that the course enrollments, in order to be eligible for coverage by TAP, must be applicable to the student's program of study. The proposed amendment specifies that the courses be either general education requirements, major requirements, or counted as electives.

The proposed amendment also clarifies that the full-time study requirement shall mean 12 semester hours for a semester of not less than 15 weeks **or 100 calendar days**.

The proposed amendment also expands the definition of eligible veterans, in recognition of veterans from periods of service other than Vietnam who are eligible for aid under the Veterans Tuition Awards Program.

In an effort to make the regulatory requirements clearer to financial aid officers, two changes were made to the provisions in section 145-2.2 of the Commissioner's Regulations. The first requires that an institution use, at a minimum, the standards of academic progress outlined in section 665 of the Education Law. The proposed amendment allows an institution to apply a stricter standard of academic progress provided that such standard includes the required levels of achievement to be measured at stated intervals as provided in section 665 of the Education Law.

The second change to this section requires that institutions make their criteria and procedures for one-time waivers of the standards for academic progress available to the public either in writing or on its Web site. The desire to have consistent institutional policies available for review was requested through discussion with the auditors of the Office of the State Comptroller.

The proposed amendments also 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 change to section 145-2.4 of the Commissioner's Regulations explains that students enrolled in a degree-granting institution other than the institution in which they are matriculated must be certified as eligible for tuition assistance by the matriculating institution. It further clarifies that the course and program of study at the attending institution must be consistent with the matriculating institution's approved program of study at the time of enrollment and attendance. In order to certify eligibility for State financial aid, the matriculating institution must receive all grades and tuition costs from the school attended.

The proposed change would also provide direction regarding the designation of a student's major and the timeline 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.

### Recommendation

VOTED: That sections 145-2.1, 145-2.2 and 145-2.4 of the Regulations of the Commissioner of Education be amended as submitted, effective March 7, 2012.

### Timetable for Implementation

If adopted at the February meeting, the proposed amendment will become effective on March 7, 2012.

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207 and 661 of the Education Law.

1. Section 145-2.1 of the Regulations of the Commissioner of Education is amended, effective March 7, 2012, to read as follows:

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

(a) For programs at degree-granting institutions which measure study in terms of credit hours or a comparable measure, the following definitions shall apply:

(1) (i) For State student financial aid programs, except the supplemental tuition assistance program (STAP), *full-time study*, where required by law, shall mean enrollment in credit-bearing courses applicable to the students' program of study, 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.

(ii) 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 credit-bearing 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.

(iii) The definition of the term semester hour shall be that provided in section 50.1(o) of this Title. Independent or individualized study, practice teaching, graduate assistantships, thesis or dissertation research, preparation for language or qualifying examinations, and noncredit or remedial courses, may all be considered as contributing toward full-time or part-time study on an hour-for-hour equivalent basis, if the student effort required is the same as would be required for a credit-bearing course in conformity with section 50.1(o) of this Title, and if required or approved by the school, in a plan of study prefiled by the student with the school, as an integral part of the student's program. Credit for independent or individualized study shall be computed in accordance with full-time or part-time requirements. Effective for academic terms beginning after January 1, 1978, a student carrying a full-time program that includes noncredit remedial courses shall carry at least six semester hours a semester, except that in the first semester of study such a student need carry only three semester hours. Effective for academic terms beginning on or after July 1, 1984, a student carrying a part-time program that includes noncredit remedial courses shall carry at least three semester hours a semester. A combination of such credit and remedial work shall equal the minimum student effort requirement for full-time study or part-time study, respectively, in nonremedial programs. However, courses taken solely to meet teacher certification, licensing, or other external requirements, and not recommended or required by the school as an integral part of the student's program, shall not contribute to full-time or part-time study.

(iv) Except as otherwise provided in subdivision (e) of this section, when 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 or part-time study requirement.

(2) . . . .

(3) . . . .

(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 credit-bearing 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.

(b) . . . .

(c) . . .

(d) . . . .

(e) [Where full-time or part-time study is required, it shall be required during the final semester in the same manner as for any other semester of study, even if not necessary in order to complete graduation requirements, except that full-time study shall not be required for recipients of Regents college scholarships during their last semester of eligibility if part-time study during such semester would be sufficient to complete the approved course of study.] A student will be deemed to meet the full-time or part-time study requirement in their last semester of eligibility if the student takes at least one course needed to meet their

graduation requirements and the student enrolls in and completes at least 12 semester hours or its equivalent.

(f) . . .

(g) . . .

2. Section 145-2.2 of the Regulations of the Commissioner of Education is amended, effective March 7, 2012, to read as follows:

§145-2.2 Academic requirements; program pursuit and academic progress.

(a) . . . .

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

(1) Part-time study, academic requirements. For the purposes of articles 13 and 14 of the Education Law, part-time students who receive their first State award during the 1981-1982 academic year and thereafter shall maintain good academic standing by complying with the requirements in subparagraph (i) of this paragraph.

(i) . . .

(ii) . . .

(iii) . . .

(iv) Except as provided for in subparagraph (v) of this paragraph, 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 at a minimum, the academic progress standards established in section 665 of the Education Law, as applicable. However, institutions may establish and apply [a] stricter [standard] standards of satisfactory academic progress provided such standards [which includes] include the required levels of achievement to be measured at stated intervals. Criteria for achievement shall include, but need not be limited to:

(a) . . .

(b) . . .

(v) The provisions of subparagraphs (iii) and (iv) of this paragraph 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 make its criteria and procedures for waivers available to students and the public, either in writing 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.

(2) . . .

3. Section 145-2.4 of the Regulations of the Commissioner of Education shall be amended, effective March 7, 2012, to read as follows:

§145-2.4 Matriculated status.

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) [Students enrolled under permit from other institutions where they are matriculated may be certified as matriculated by the school attended.] Students enrolled in a degree granting institution other than the institution in which they are matriculated must be certified as eligible for tuition assistance by the matriculating institution. The courses and program of study at the attending institution must be consistent with the matriculating institution's approved



program of study at the time of enrollment and attendance. In order to certify eligibility for State financial aid, the matriculating institution must receive all grades and tuition costs from the school 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 programs provided that the matriculating institution approves the student's deferment. For State 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 requirements for the degree within the timeframe specified in the academic program as registered with the Commissioner. 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 during their program of study.