



Brigham Young University–Hawaii
Office of Compliance & Ethics Research Memo
Program Eligibility for Financial Aid—Academic Year

Law/Act:	Program Eligibility for Financial Aid—Academic Year	
U.S. Code Citation	20 U.S.C. §§ 1070, 1088	
Code of Federal Regulations Citation:	34 C.F.R. pt. 600 (§ 668.3)	
Responsible Regulator:	Secretary of the U.S. Department of Education	
BYU–Hawaii Responsible Officer:	Head of Financial Aid and Scholarship	
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PURPOSE

The purpose of federal student financial aid programs is to “mak[e] available the benefits of postsecondary education to eligible students[.]”¹ Rules created by the U.S. Department of Education aim to ensure that only eligible students and institutions participate in student financial assistance programs authorized by Title IV of the Higher Education Act (HEA).² Specific rules governing the academic year and length of programs were adopted to “improve the efficiency of Federal student aid programs” and “improve their capacity to enhance opportunities for postsecondary education.”³

HISTORY

The HEA was originally passed in 1965.⁴ The law established several federal student financial aid programs, including Pell Grants and federal loans, that provide funding for students to attend institutions of higher education.⁵ The HEA and later amendments imposed requirements regarding the academic year for participating schools.⁶ Regulations adopted under the HEA clarified the minimum number of weeks of instructional time in an academic year and set forth a limited option for seeking a reduction.⁷ The HEA has been reauthorized several times, with significant amendments being made in 1998.⁸ In 2008, most of the law’s provisions were renewed as the Higher Education Opportunity Act.⁹

APPLICABILITY TO BYU–HAWAII

An *institution of higher education* is eligible to participate in student financial assistance programs only if it meets a series of applicable requirements, including the requirement that its programs of study have a defined academic year of a certain minimum length.¹⁰ Likewise, an *educational program* at a higher education institution is eligible for federal student aid funds if the program leads to a degree (including a professional or graduate degree) and satisfies relevant requirements including the minimum standard

¹ 20 U.S.C. § 1070(a) (2016); *see also* Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219, 1232 (1965) (stating the purpose “to provide . . . educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means of their own or of their families would be unable to obtain such benefits without such aid”).

² 34 C.F.R. § 600.1 (2016).

³ Student Assistance General Provisions, 59 Fed. Reg. 22,348, 22,348 (Apr. 29, 1994).

⁴ Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219 (1965).

⁵ 20 U.S.C. § 1070(a). A list of other Title IV, HEA programs can be found in 34 C.F.R. § 668.1(c).

⁶ *See* 20 U.S.C. § 1088(a)(2) (defining “academic year” in terms of weeks of instructional time and hours).

⁷ 34 C.F.R. § 668.3; *see also* Student Assistance General Provisions, 59 Fed. Reg. 22,348, 22,361 (Apr. 29, 1994) (seeking to “discourage routine requests”).

⁸ 1998 Amendments to the Higher Education Act of 1968, Pub. L. No. 105-244, 112 Stat. 1582 (1998).

⁹ Higher Education Opportunity Act of 2008, Pub. L. No. 110-315, 122 Stat. 3078 (2008).

¹⁰ *See* 34 C.F.R. § 600.2 (defining “eligible institution” as one that meets “all the other applicable provisions of 34 C.F.R. pt. 600); *id.* § 668.3 (imposing requirements for an academic year).



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for its academic year.¹¹ Individual programs, including graduate programs, must meet the federal academic year standard before federal student aid can be awarded to any students in those programs.¹²

As a recipient of federal student aid funds, BYU–Hawaii has agreed to and must comply with federal requirements regarding the academic year in order to maintain its eligibility to participate in student financial assistance programs; similarly, individual programs at BYU–Hawaii must have a defined academic year of sufficient length in order for students in those programs to be eligible to receive federal financial aid.

REQUIREMENTS

For purposes of participation in federal student aid programs, educational programs need to meet minimum standards for weeks of instructional time and hours. Programs measured in credit hours¹³ must have an academic year that requires at least thirty weeks of instructional time.¹⁴ For undergraduate programs, full-time students must be expected to complete at least twenty-four credit hours during the academic year.¹⁵ There is no similar credit-hour requirement for graduate programs.¹⁶ However, graduate programs must still meet the minimum instructional time, which is thirty weeks.¹⁷

The number of weeks of instruction in a particular program impacts the calculation of different financial aid awards.¹⁸ Schools are allowed to have different academic years for different programs, but they “must use the same academic year definition” when awarding financial aid to students in the same program.¹⁹ All programs must define an academic year that conforms to the minimum requirements even if the program itself is shorter than those minimum requirements.²⁰

What Constitutes a Week of Instructional Time?

A week of instructional time is “any [consecutive seven-day period] in which at least one day of regularly scheduled instruction or examinations occurs or . . . at least one day of study for final examinations occurs[.]”²¹ According to guidance from the federal government, the number of weeks of instructional time in an academic year “is based on the period that begins on the first day of classes in the academic year and ends on the last day of classes or examinations.”²² Each counted “week” must contain one of the following:²³

¹¹ See 34 C.F.R. § 668.8(a), (c) (defining “eligible program” as one “provided by a participating institution” and that “[s]atisfies the other relevant requirements”).

¹² See U.S. Dep’t of Ed., Federal Student Aid Handbook 3-3 (2015), available at <https://ifap.ed.gov/fsahandbook/attachments/1516FSAHbkActiveIndexMaster.pdf> [hereinafter FSA Handbook] (noting that for purposes of financial aid eligibility “[e]very eligible program, including graduate programs, must have a defined academic year”).

¹³ Although schools are allowed to measure programs in clock hours or credit hours, BYU–Hawaii’s academic programs are all defined in terms of credit hours. See the current *BYU–Hawaii Academic Catalog*.

¹⁴ 20 U.S.C. § 1088(a)(2)(A) (requiring an academic year to “require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours”); see also 34 C.F.R. § 668.3(a)(1)(i) (stating the same minimum standard for weeks of instructional time). Programs measured in clock hours need to have a minimum of 26 weeks of instructional time. 34 C.F.R. § 668.3(a)(1)(ii).

¹⁵ 34 C.F.R. § 668.3(a)(2)(i).

¹⁶ See *id.* (referencing only undergraduate educational programs).

¹⁷ 34 C.F.R. § 668.3(a)(1)(i).

¹⁸ See e.g., 34 C.F.R. § 686.22 (TEACH Grant Program); *id.* § 690.63 (Federal Pell Grant); *id.* § 691.63 (ACG and National Smart Grant Programs).

¹⁹ See FSA Handbook, *supra* note 12, at 3-3.

²⁰ Federal Student Aid Programs, 71 Fed. Reg. 45,666, 45,669 (Aug. 9, 2006) (revising definition of academic year in 34 C.F.R. § 668.3 “so that an academic year is no longer defined as a period of time that begins on the first day of classes and ends on the last day of classes or examinations”).

²¹ 34 C.F.R. § 668.3(b)(1)-(2); see also Federal Student Aid Programs, 67 Fed. Reg. 67,048, 67,052 (Nov. 1, 2002) (stating that “a week in which there is not at least one day of instruction or examination cannot be counted as one of the 30 weeks of instructional time required by the statute”).

²² FSA Handbook, *supra* note 12, at 3-4.

²³ 34 C.F.R. § 668.3(b)(2).



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- One day of regularly scheduled instruction,
- One day of examinations, or
- One day of final examination study.

Federal regulations are silent on how many hours of instruction make up one day of instruction; however, agency guidance suggests “[t]his has been left to the reasonable interpretation of schools and their accrediting agencies.”²⁴ Importantly, instructional time does not include any vacation periods, homework, orientation periods, or counseling sessions.²⁵

Can a Program’s Academic Year Be Reduced to Less Than Thirty Weeks?

An institution may seek a reduction in the required number of weeks for instructional time by submitting a written request to the Secretary of Education.²⁶ However, the academic year can only be reduced to a minimum of 26 weeks.²⁷ An institution’s written request must:

- Identify each education program for which the institution is requesting a reduction and include the number of weeks of instructional time that the program is requesting,
- Show good cause for the requested reduction, and
- Include any additional information that may be required for the Secretary to determine if the request should be approved.²⁸

The Secretary will approve requests for a reduction of length if the institution demonstrates “good cause” for the reduction and the reduction has been approved by the institution’s accrediting agency and state licensing agency.²⁹ If the reduction of length is approved by the Secretary, then the request is valid until the institution’s program participation agreement expires.³⁰

PENALTIES

A postsecondary institution that fails to comply with the federal requirements regarding its academic year and weeks of instruction may face civil fines or lose eligibility to participate in federal student aid programs.³¹

STAYING UP-TO-DATE

The following websites provide valuable information regarding this law and its applicability.

DOCUMENT/REFERENCE	DESCRIPTION
Federal Student Aid Handbook	Department of Education’s Federal Student Aid Handbook, including student eligibility requirements and glossary of terms (Appendix A).

²⁴ FSA Handbook, *supra* note 12, at 3-4; *see also* Federal Student Aid Programs, 67 Fed. Reg. at 67,051 (“We do not believe it is appropriate for the Department to limit institutional flexibility by establishing a rigid definition of how many hours of instructional time must be included in order for a day to be considered a day of instruction.”).

²⁵ 34 C.F.R. § 668.3(b)(3).

²⁶ *Id.* § 668.3(c)(1).

²⁷ *See id.* (noting that the reduction is available only if the institution “offers a two-year program leading to an associate degree or a four-year program leading to a baccalaureate degree”); *see also* 20 U.S.C. 1088(a)(2)(B) (stating the same).

²⁸ *Id.* § 668.3(c)(2).

²⁹ *Id.* § 668.3(c)(i).

³⁰ *Id.* § 668.3(c)(ii). An institution may request an extension of its reduction in length approval as part of the recertification process. *Id.*

³¹ *See id.* § 668.84(a)(1)(i) (setting forth fines of up to \$27,500 for each violation); *id.* § 668.85(a)(1)(i) (authorizing the Secretary of the U.S. Department of Education to suspend participation in federal student aid programs if an institution violates statutory or regulatory provisions under Title IV of the HEA).



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