

DEPARTMENT OF EDUCATION/

34 CFR Parts 668, 673, 674, 675, 676, 682, 685, 686, and 690

RIN 1840-AC93

[Docket ID ED-2008-OPE-0001]

The Teacher Education Assistance for College and Higher Education (TEACH) Grant Program and Other Federal Student Aid Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends title 34 of the Code of Federal Regulations to establish regulations for the Teacher Education Assistance for College and Higher Education (TEACH) Grant program. The TEACH Grant program is a non-need-based grant program that provides up to \$4,000 per year to students who are enrolled in an eligible program and who agree to teach in a high-need field, at a low-income elementary or secondary school for at least four years within eight years of completing the program for which the TEACH Grant was awarded. If the grant recipient fails to complete the required teaching service, the TEACH Grant is treated as a Federal Direct Unsubsidized Stafford Loan (Federal Direct Unsubsidized Loan). The Secretary also amends the regulations related to the Student Assistance General Provisions; the General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program; the Federal Perkins Loan Program; the Federal Work-Study Program; the Federal Supplemental Educational Opportunity Grant Program; the Federal Family Education Loan (FFEL) Program; the William D. Ford Federal Direct Loan Program; and the Federal Pell Grant Program to implement the TEACH Grant program. These regulations are needed to implement provisions of the Higher Education Act of 1965 (HEA), as amended by the College Cost Reduction and Access Act of 2007 (CCRAA).

DATES: *Effective Date:* These regulations are effective July 1, 2008.

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SUPPLEMENTARY INFORMATION: On March 21, 2008, the Secretary published a notice of proposed rulemaking (NPRM) for the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program and Other Federal Student Aid Programs in the **Federal Register** (73 FR 15336).

In the preamble to the NPRM, the Secretary discussed on pages 15337 through 15352 the major regulations proposed in that document to implement the TEACH Grant program authorized under Title IV of the HEA, including the following:

- Amending § 668.164(g) to add the TEACH Grant program to the list of programs for which a student becomes ineligible when the student is no longer enrolled at the institution for the award year and to describe how TEACH Grant recipients may qualify for a late disbursement.
- Amending § 668.183 to specify that a TEACH Grant that has been converted to a Federal Direct Unsubsidized Loan would not be included in calculating an institution's cohort default rate.
- Amending § 673.5 to include the amount of any TEACH Grant in the types of funds that may be used to replace a student's expected family contribution (EFC).
- Adding new § 686.2 to define the terms "Academic year or its equivalent for elementary and secondary schools (Elementary or secondary academic year)," "Annual award," "Scheduled award," "Elementary school," "High-need field," "Highly-qualified," "Numeric equivalent," "Post-baccalaureate program," "Retiree," "School serving low-income students (low-income school)," "Secondary school," "Service Agreement," "TEACH Grant-eligible institution," "TEACH Grant-eligible program," "Teacher," and "Teacher preparation program."
- Adding new § 686.3 to establish the duration of student eligibility for a TEACH Grant based on the maximum amount of grant funds available to students under section 420M(d)(1) and (2) of the HEA.
- Adding new § 686.4 to give institutions the option to participate in the TEACH Grant program, to clarify that participation in the program is voluntary, and to describe the obligations of institutions if they cease to participate in the program.
- Adding new § 686.5 to specify how an institution would treat

correspondence courses for purposes of the TEACH Grant program.

- Adding new § 686.6 to prohibit students from receiving TEACH Grant payments concurrently from more than one institution.
- Adding new § 686.10 to describe the procedures that a student must follow when applying for a TEACH Grant, and, in particular, to require that a student submit a Free Application for Federal Student Aid (FAFSA), complete and sign a service agreement and promise to repay, and provide any additional information requested by the Secretary.
- Adding new § 686.11 to establish student eligibility requirements for the TEACH Grant program.
- Adding new § 686.12 to describe the agreement students must sign prior to receiving each TEACH Grant award, and to explain the service obligation that students must carry out for the TEACH Grant award not to convert to a Federal Direct Unsubsidized Loan.
- Adding new § 686.20 to require a student to submit a valid Student Aid Report (SAR) or for the student's institution to receive an Institutional Student Information Record (ISIR) with an official EFC so that the institution can determine the appropriate amount of a student's TEACH Grant.
- Adding new § 686.21 to provide that while a Scheduled Award for the TEACH Grant program is \$4,000, students may receive lesser annual award amounts depending on their enrollment status and to clarify that a student's TEACH Grant award, combined with other estimated financial assistance, cannot exceed the cost of the student's attendance as determined by the institution.
- *Adding new §§ 686.22 and 685.25 to:* (1) Describe how an institution calculates a TEACH Grant payment for a payment period for an eligible student depending on the academic calendar of the eligible program, the student's enrollment status, and the amount of the student's annual award; (2) establish the minimum payment for a payment period; (3) require institutions to define the term "academic year" for purposes of calculating payments for payment periods; and (4) allow institutions to use overlapping Scheduled Awards in a payment period.
- Adding new § 686.23 to address how an institution calculates a TEACH Grant payment for an eligible student's payment period when the student is enrolled in a payment period that overlaps two award years.
- Adding new § 686.24 to establish how an institution calculates a payment for an eligible student who transfers

from another postsecondary institution within the same award year.

- Adding new § 686.31 to delineate what an institution must do to determine whether a student is eligible to receive a TEACH Grant.
- Adding new § 686.32 to describe the initial, subsequent, and exit counseling that institutions must provide to each TEACH Grant recipient.
- Adding new § 686.33 to allow institutions to pay a student a TEACH Grant at such times and in such installments that best meet the student's needs.
- Adding new § 686.37 to describe the information pertaining to a student's TEACH Grant eligibility that an institution must submit to the Department and to establish submission deadlines for this information.
- Adding new § 686.40 to define how and when a TEACH Grant recipient must contact the Department to document fulfillment of his or her service obligation or, if the service obligation has not been met, the intent to fulfill the service obligation.
- Adding new § 686.41 to define the conditions under which a TEACH Grant recipient will be able to request a suspension of his or her service obligation for a specified amount of time.
- Adding new § 686.42 to require the discharge of a grant recipient's service obligation if the recipient dies or becomes totally and permanently disabled, and to clarify that the four-year service obligation still would apply to a recipient who is in a conditional discharge period.
- Adding new § 686.43 to describe the various conditions under which a TEACH Grant would be converted into a Federal Direct Unsubsidized Loan, with interest accruing from the date of each grant disbursement and which a TEACH Grant recipient would be required to pay.

Technical Corrections

We are making minor technical changes, including the following, to correct errors that we identified during our review of the proposed regulations.

Program Participation Agreement (§ 668.14(f))

We have revised § 668.14(f) to correct inaccurate cross-references. Specifically, § 668.14(f) has been amended to cross-reference paragraphs (g) and (h) of the section, rather than (h) and (i) of the section. We also have revised § 668.14(f)(3) to cross-reference paragraph (f), rather than paragraph (g), of the section.

Teacher Loan Forgiveness Program (§§ 682.215 and 685.217)

We have revised §§ 682.215(c)(7)(ii) and 685.217(c)(7)(ii) to correct inaccurate citations for the Family and Medical Leave Act of 1993 (FMLA). The correct citation for the FMLA is 29 U.S.C. 2601, *et seq.*, not 19 U.S.C. 2654.

Analysis of Comments and Changes

The regulations in this document were developed through negotiated rulemaking. Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs under Title IV of the HEA, the Secretary must obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless the Secretary reopens that process or explains any departure from the agreements to the negotiated rulemaking participants.

These regulations were published in proposed form on March 21, 2008, in conformance with the consensus of the negotiated rulemaking committee. Under the committee's protocols, consensus meant that no member of the committee dissented from the agreed-upon language. The Secretary invited comments on the proposed regulations by April 21, and in response to the Secretary's invitation, 132 parties submitted comments on the proposed regulations. An analysis of the comments and the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes.

General

Comment: The Department received several general comments about the TEACH Grant program. Four commenters suggested that the program is inappropriately named and argued that the Department should change the name of the program to reflect the fact that it is, in their opinion, a loan forgiveness program rather than a grant program. Two commenters argued that the funds dedicated for the TEACH Grant program would better serve students if they were reallocated to the

current Teacher Loan Forgiveness Program or to the Perkins Loan Program.

The Department also received comments in support of the TEACH Grant program that did not address specific sections of the proposed regulations.

Discussion: The name, purpose, and structure of the program are established by the HEA and cannot be changed by the Department. The Department is not authorized to reallocate funds Congress designates for the TEACH Grant program to another program.

The Department is working to disseminate detailed information about the unique nature of the TEACH Grant program, including how TEACH Grants may, under certain circumstances, convert into Federal Unsubsidized Direct Loans, to institutions as well as to parents and students.

Changes: None.

Eligible Programs (§ 668.8)

Comment: One commenter requested clarification about the relationship between the definition of eligible program in § 668.8 and the definition of TEACH Grant-eligible program in 34 CFR 686.2(d). The commenter questioned whether it is appropriate to add, in § 668.8(h)(3), a cross-reference to the definition of TEACH Grant-eligible program in 34 CFR 686.2(d). In addition, the commenter asked if programs that contribute to a student's ability to teach in a high-need field should be included in the definition of eligible program under § 668.8(h)(3)(i).

Discussion: We agree that the connection between the definition of eligible program in § 668.8 and the definition of TEACH Grant-eligible program found in 34 CFR 686.2(d) needs clarification. For purposes of the TEACH Grant program, an educational program is an eligible program under § 668.8 only if it qualifies as a TEACH Grant-eligible program in accordance with 34 CFR 686.2(d). Rather than amend § 668.8 to restate the definitional requirements of a TEACH Grant-eligible program, we amended § 668.8 simply to cross-reference the definition in 34 CFR 686.2(d).

A program that contributes to a student's ability to teach in a high-need field would be a TEACH Grant-eligible program if it is designed to prepare an individual to teach as a highly qualified teacher in a high-need field and leads to a baccalaureate or master's degree, or is a post-baccalaureate program of study.

Changes: We amended § 668.8(h) to clarify that an educational program qualifies as an eligible program for purposes of the TEACH Grant program only if it is a TEACH Grant-eligible

program in accordance with 34 CFR 686.2(d).

Treatment of Title IV grant and loan funds when a student withdraws (§ 686.22)

Comment: One commenter questioned the placement of TEACH Grants in the listing of unearned grant funds returned in the event a student withdraws from an institution during a payment period. The commenter believed that TEACH Grants should be placed at the beginning of the order for returning grant funds and asked that that placement be reconsidered.

Discussion: As reflected in the NPRM, the Department believes that TEACH Grants should not be at the beginning of the order for returning grant funds. Under the regulations, TEACH Grants will be returned after Federal Pell Grants, Academic Competitiveness Grants, National SMART Grants, and FSEOG program assistance. This return order is prescribed by section 484B(b)(3)(B)(iii) of the HEA.

Changes: None.

Calculating and Applying Cohort Default Rates (§ 668.183)

Comment: Several commenters supported § 668.183, which provides that a TEACH Grant that has been converted to a Federal Direct Unsubsidized Loan is not included in the calculation of an institution's cohort default rate.

Discussion: We appreciate the commenters' support.

Changes: None.

Overaward (§ 673.5)

Comment: One commenter supported the proposal that TEACH Grants be allowed to replace the EFC, believing that this approach fulfills the spirit of the legislation and will be helpful in making awards to students.

Discussion: We appreciate the commenter's support.

Changes: None.

Maximum Loan Amounts (§§ 682.204 and 685.203)

Comment: One commenter wrote to support the proposal to exclude a TEACH Grant that has been converted to a Federal Direct Unsubsidized Loan from a borrower's aggregate or annual loan limits in the Federal Family Education Loan (FFEL) and Federal Direct Loan Programs.

Discussion: We appreciate the commenter's support.

Changes: None.

Definitions (§ 686.2(d))

Agreement To Serve

Comment: None.

Discussion: The Department is changing the name of the agreement described in section 420N(b) of the HEA from "service agreement" to "agreement to serve" to be more consistent with the statute.

Change: We have amended § 686.2(d) to change the name of the agreement under which a TEACH Grant recipient commits to meet the service obligation described in § 686.12 from "service agreement" to "agreement to serve."

High-Need Field

Comment: A large number of commenters suggested that library media specialist should be included in the list of high-need fields. They argued that all 50 States require that a school library media specialist have a State teaching certificate, that library media specialists are considered teachers and are responsible for developing curriculum and instructing students, and that there are significant shortages of library media specialists across the country. Several commenters contended that early childhood education should be considered a high-need field because of the shortage of baccalaureate-degree-holding early childhood education teachers and the requirement that Head Start teachers have a bachelor's degree in early childhood education by 2013.

Discussion: Under certain circumstances, library media specialist and early childhood education qualify as high-need fields and a grant recipient could fulfill the service obligation associated with receipt of a TEACH Grant by teaching in these fields. As specified in § 686.12(b), for each TEACH Grant-eligible program for which the student received TEACH Grant funds, the grant recipient must fulfill a service obligation by serving as a full-time teacher for a total of not less than four elementary or secondary academic years within eight calendar years after completing the program or otherwise ceasing to be enrolled in the program for which the recipient received the TEACH Grant in a low-income school, as a highly qualified teacher, and in a high-need field in the majority of classes taught during each elementary and secondary academic year.

The definition of high-need field in § 686.2(d) reflects section 420N(b) of the HEA which specifically designates several fields as high-need and provides for the inclusion of other fields that are documented as high-need by the Federal Government, a State government or a local educational agency (LEA), and

approved by the Secretary. The regulations explain that the additional high-need fields are those listed in the Department's annual Teacher Shortage Area Nationwide Listing (Nationwide List), which is available on the Department of Education's Web site at <http://www.ed.gov/about/offices/list/ope/pol/tsa.pdf>. The Nationwide List is based on information submitted to the Department by the States, and inclusion of a field on the Nationwide List indicates approval by the Department of Education. Some States have identified early childhood education and library media specialist as shortage areas in the Nationwide List.

For purposes of the TEACH Grant program, a teacher is someone who provides direct classroom teaching or classroom-type teaching in a non-classroom setting in an elementary or secondary school. An elementary or secondary school is a nonprofit institutional day or residential school, including a public elementary or secondary charter school, that provides elementary or secondary education, as determined under State law. The individual must be teaching the majority of classes in the high-need field. In the case of service in early childhood education, to meet the criterion of being a highly qualified teacher the individual would need to be certified by the State in early childhood education. To meet the criterion of teaching in an elementary school, the service would need to take place in an elementary school and the State would need to consider early childhood education a component of the State's elementary school education system and have designated early childhood education as a high-need field.

To meet the criterion of "highly qualified," a library media specialist would need to be certified by the State as a library media specialist. To meet the criterion of "teacher," the library media specialist would need to be performing direct classroom teaching or classroom-type teaching in a non-classroom setting for a majority of time in an elementary or secondary school. In addition, the State would have to designate library media specialist as a high-need field. In all cases, the service would need to be performed in a low-income school.

Changes: None.

Comment: A couple of commenters inquired whether elementary education could be included as a high-need field. One commenter requested that we provide specific information about how elementary school teachers could demonstrate that they are teaching in a high-need field.

Discussion: As described in the discussion of library media specialist and early childhood education, elementary education could be a high-need field if it is designated as a high-need field by the State in which the recipient teaches.

There are other limited circumstances under which a grant recipient can satisfy the service obligation by serving as an elementary school teacher including: (1) Teaching the majority of his or her courses in a high-need field, such as math, science, or a foreign language; (2) teaching in a foreign language immersion program; (3) serving as a reading specialist, a special education teacher, or a bilingual education teacher, or teaching English language acquisition; or (4) teaching in a low-income school in a State that has designated elementary education as a high-need field.

Changes: None.

Comment: A couple of commenters asked for clarification of the terms “bilingual education” and “English language acquisition.” One commenter questioned whether bilingual education includes immersion classrooms.

Discussion: The National Clearinghouse for English Language Acquisition (NCELA) (<http://www.ncela.gwu.edu>), an online resource supported by the Department of Education’s Office of English Language Acquisition, provides general definitions of these terms. Language acquisition is the process of acquiring a first or second language. Bilingual education is an educational program in which two languages are used to provide content matter instruction. In foreign language immersion programs the foreign language is the vehicle for content instruction and is not the subject of instruction. Therefore, bilingual education does not include foreign language immersion programs.

Changes: We have added definitions of the terms “bilingual education” and “English language acquisition” to § 686.2(d). These definitions are taken from the NCELA.

Comment: One commenter asked the Department to specify what major would lead to teaching English acquisition and English as a Second Language and who would make this determination.

Discussion: The Department does not have the authority or expertise to specify which academic degrees would prepare an individual to teach in these, or any other, fields since that is an academic decision that rests with the institution.

Changes: None.

Comment: One commenter sought clarification of whether a foreign language is a high-need field and suggested that a K–12 foreign language immersion program should be considered part of the high-need foreign language field listed in the statute and regulations.

Discussion: All foreign languages are high-need fields for purposes of the TEACH Grant program. We agree with the commenter that teaching in a foreign language immersion program would meet the requirement for teaching in a high-need field.

Changes: None.

Highly-Qualified

Comment: A couple of commenters requested that the Department provide the specific requirements that must be met to satisfy the criterion for being a highly-qualified teacher rather than merely referencing the relevant statutes.

Discussion: The requirements for being designated “highly qualified” are very complex and differ for the various states. The requirement that teachers be highly-qualified applies to all public elementary or secondary school teachers employed by a LEA who teach a core academic subject. Special education teachers who teach core academic subjects are included in this requirement. In general, “highly qualified” means that the teacher—

(1) Has obtained full State certification as a teacher or passed the State teacher licensing examination, holds a license to teach in the State, and has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis (special education teachers must be certified in special education);

(2) Holds a minimum of a bachelor’s degree; and

(3) Has demonstrated subject-matter competency in each of the academic subjects in which the teacher teaches, in a manner determined by the State and in compliance with section 9101(23) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

The statutory definition of “highly qualified” includes additional elements that apply differently to veteran teachers and new teachers, and to elementary, middle, and secondary school teachers. The complete statutory definition of a “highly qualified” teacher is in section 9101(23) of the ESEA and in section 602(10) of the Individuals With Disabilities Education Act. The Department’s regulations at 34 CFR 200.56 further define “highly qualified teacher.” Among other things, 34 CFR 200.56 clarifies when teachers who

pursue State certification through an alternative-route program may be considered fully certified while they participate in that program. More guidance on the criterion for being a highly qualified teacher is available at <http://www.ed.gov/teachers/nclbguide/improve-quality.html>.

Changes: None.

Post-Baccalaureate Program

Comment: A few commenters raised concerns about the phrase at the end of paragraph (2) of the definition of post-baccalaureate program that they believe makes a post-baccalaureate program offered by an institution that also has an undergraduate teacher preparation program ineligible for the TEACH Grant program. They suggested that the post-baccalaureate program and an undergraduate teacher education program offered by the same institution should both be eligible programs for TEACH Grant purposes. One of these commenters noted that some institutions require their undergraduate education majors to complete a fifth year during which they take coursework necessary to earn a teaching credential.

Discussion: The definition of post-baccalaureate program in § 686.2(d) is from section 420L(2) of the HEA. That definition limits the TEACH Grant eligibility of post-baccalaureate programs to those offered by institutions that do not have an undergraduate teacher preparation program. In the case of an institution that offers both an undergraduate teacher preparation program and a post-baccalaureate program, the institution would be eligible, and it could designate its teacher preparation program as a TEACH Grant-eligible program. We understand that some institutions’ teacher preparation programs require students to complete a post-baccalaureate program after earning a baccalaureate degree in teacher education. However, the statute does not permit these post-baccalaureate programs to be eligible for the TEACH Grant program.

Changes: None.

TEACH Grant-Eligible Institution

Comment: One commenter questioned the exclusion of institutions that fail to meet financial responsibility standards but that qualify to participate in all of the other Title IV, HEA programs under alternate standards from participation in the TEACH Grant program.

Discussion: We agree with the commenter that the same standards should apply for an institution to qualify to participate in the TEACH Grant program as for all the other Title

IV programs. Using the same standards will result in consistent treatment across all programs and reduce the administrative burden on both institutions and the Department.

Changes: We have amended the definition of TEACH Grant-eligible institution to allow institutions that do not meet financial responsibility standards established in 34 CFR part 668, subpart L to participate in the TEACH Grant program by qualifying under an alternative standard in 34 CFR 668.175.

Comment: One commenter thanked us for including in the definition of TEACH Grant-eligible institution institutions whose teacher preparation programs are approved by a State, include extensive pre-service clinical experience, and provide pedagogical coursework or the assistance in the provision of such coursework.

Discussion: We appreciate the commenter's support.

Changes: None.

Comment: One commenter asked that we clarify what constitutes "high-quality" teacher preparation programs and what "extensive pre-service clinical experience" entails.

Discussion: The definition of TEACH Grant-eligible institution in § 686.2(d) contains four components that constitute a "high-quality" teacher preparation program. The components are: (1) Approval by a cognizant authority (either accreditation by a specialized accrediting agency or State approval); (2) extensive pre-service clinical experience; (3) direct provision of pedagogical coursework or assistance in providing such coursework; and (4) provision of supervision and support services to teachers, or assistance in such provision. Institutions whose programs are accredited by one of the specialized accrediting agencies recognized by the Secretary for the accreditation of professional teacher education programs, which are listed on the Department's Web site at http://www.ed.gov/admins/finaid/accred/accreditation_pg8.html#ed, are considered to meet the requirements related to pre-service clinical experience and pedagogical coursework. While we did not specifically discuss a minimum length of time for pre-service clinical experience during negotiated rulemaking, a standard will be necessary from an operational standpoint so that we can determine whether or not an institution whose teacher preparation program is not accredited by a specialized accrediting agency meets this requirement. Accordingly, we reviewed the requirements of all the States and

determined that a majority of States require at least 10 weeks of full-time pre-service clinical experience, while some require significantly less and a few require more. In addition, in testimony during a public hearing on the TEACH Grant program, the American Association of Colleges for Teacher Education recommended 10 weeks of full-time pre-service clinical experience as a minimum. Therefore, we have adopted 10 weeks of full-time pre-service clinical experience, or its equivalent, as the regulatory standard. We considered that a program might be designed so that students would complete their clinical experience on a part-time basis and will allow for the completion of the 10 weeks of full-time pre-service clinical experience on a part-time basis.

Changes: We have revised paragraph (1)(i)(B) of the definition of TEACH Grant-eligible program in § 686.2(d) to specify that a teacher preparation program that is approved by a State must provide a minimum of 10 weeks of full-time pre-service clinical experience, or its equivalent.

Comment: One commenter asked whether the reference to "teachers" in paragraph (1)(ii) of the definition of TEACH Grant-eligible institution refers to an employed teacher or a student teacher.

Discussion: The phrase "provides supervision and support services to teachers, or assists in the provision of services to teachers" refers to employed teachers, not to student teachers. Faculty and other professional personnel at institutions with teacher preparation programs are expected to share their knowledge with working teachers as part of their education role.

Changes: None.

Comment: One commenter wondered what is meant in paragraph (1)(ii)(B) by the term "novice" in the description of the types of supervision and support services an institution might provide to teachers. The same commenter asked for further explanation and examples of ways an institution might meet the supervision and support services requirement.

Discussion: In general, a novice is an individual who is new to a field or activity. In the case of teachers, a novice is normally considered to be one who is involved in the first, second, or third year of teaching.

The regulations include a few illustrative examples of the types of supervision and support services an institution might provide to teachers. We believe that an exclusive list would be too restrictive on institutions. We expect that institutions with teacher

preparation programs will be able to identify other types of services they provide that satisfy the requirement based on the illustrative examples.

Changes: None.

Comment: One commenter asked for more discussion and examples of how a community college can become a TEACH Grant-eligible institution. In particular, the individual wondered whether the community college must have an articulation agreement with each four-year institution to which a student would transfer.

Discussion: In order to be a TEACH Grant-eligible institution, a community college must have an agreement with at least one four-year institution. The agreement need not be a formal articulation agreement. However, the agreement must demonstrate (1) that the two-year program offered by the community college is acceptable for full credit in that institution's baccalaureate teacher education program, or (2) that the two-year program is acceptable for full credit in a baccalaureate degree program in a high-need field at a TEACH Grant-eligible institution. An agreement that would demonstrate that the two-year program is acceptable for full credit into a baccalaureate degree in the high-need field of math, for example, would likely list several courses that would meet the four-year institution's general education requirements, some courses that could be electives, and a few lower-level math courses required for the major. Our expectation is that a student who follows a pathway established through an agreement would not have to take additional credits beyond the minimum required for graduation from the four-year institution.

The agreement is used to establish institutional eligibility. It is not a requirement that each student enrolled in the two-year program attend the four-year institution with which the community college has the agreement. A community college does not have to have more than one agreement to establish its eligibility.

Changes: None.

TEACH Grant-Eligible Program

Comment: A couple of commenters expressed their appreciation that the regulations permit institutions to define which programs will be eligible for the TEACH Grant.

Discussion: We appreciate the support.

Changes: None.

Comment: One commenter asked that we explain the criterion of "fully-qualified" teacher in the context of preparation in an eligible program.

Discussion: We agree with the commenter that the definition of TEACH Grant-eligible program should be designed to prepare an individual to teach as a highly-qualified teacher. Preparation of highly-qualified teachers is a key component of an eligible program, but we also recognize that, given the various pathways a student might follow to gain the knowledge needed to become a highly-qualified teacher, the student may need to complete more than one program. For example, a student may earn a baccalaureate degree in a high-need field, such as mathematics, and then enroll in a post-baccalaureate program for the courses needed to receive a professional certification or licensing credential. Subject area content knowledge and certification are both components of the definition of “highly-qualified” teacher and, in the situation just described, a single program would not provide both. With this clarification, we agree that the definition of TEACH Grant-eligible program should include a reference to the preparation of a highly-qualified teacher.

Changes: We have amended the definition of a TEACH Grant-eligible program in § 686.2(d) to clarify that a TEACH Grant-eligible program must be designed to prepare an individual to teach as a highly-qualified teacher.

Comment: Several commenters sought guidance on the amount of latitude institutions have in designating eligible programs. Some wondered if an institution could designate only its master’s degree programs, and not its undergraduate programs, or only its teacher preparation programs or post-baccalaureate programs as TEACH Grant-eligible.

Discussion: In making a determination of which programs to designate as TEACH Grant-eligible, an institution may differentiate between its master’s degree programs and its undergraduate programs, making only its master’s degree programs TEACH Grant-eligible. An institution may also choose to make only its teacher preparation programs TEACH Grant-eligible, and not include any programs in high-need fields.

Changes: None.

Comment: Several commenters asked whether institutions could limit participation in the TEACH Grant program to upper level undergraduate students. One commenter suggested that institutions should have the option to determine whether the first two years of a four-year program are part of an eligible program.

Discussion: An institution may limit participation in the TEACH Grant

program to students who have formally declared a major or who have been formally admitted to the teacher preparation program. In such cases, the TEACH Grant-eligible program could effectively involve only upper-level undergraduate students and the eligible program would not include the first two years of a four-year program. An institution could also determine that the first two years are not part of the TEACH Grant-eligible program. However, if the institution designates a program as TEACH Grant-eligible it cannot further discriminate among eligible students in that program. If, for example, an institution designates a program as TEACH Grant-eligible and that program begins in the freshman year, the institution may not limit TEACH Grant participation to upper-level undergraduates in the program.

Changes: None.

Comment: One commenter asked whether a two-year institution could restrict TEACH Grant-eligibility to programs with some relationship to teacher preparation and not include programs that transfer into four-year baccalaureate programs that include high-need majors.

Discussion: An institution may designate only certain programs as TEACH Grant-eligible and not designate others, even though they may prepare a student to teach in a high-need field.

Changes: None.

Comment: In questioning whether an institution could require that a student must have declared an appropriate major, or have been accepted into a teacher preparation program, one commenter asked whether the practice would cross the line between program eligibility and student eligibility.

Discussion: Program eligibility—where the institution may identify, within the parameters of the regulations, the scope of institutional programs that are TEACH Grant-eligible—and student eligibility—where the institution must adhere to the eligibility criteria identified in the regulations—are closely intertwined in the TEACH Grant program and there are instances, such as the situation the commenter describes, where the line between them is crossed. It is important to note that a program might be defined differently for general Title IV purposes and for TEACH Grant purposes with the consequence that, for some period of time, a student could receive financial assistance from other Title IV programs, but would not qualify for a TEACH Grant. Ultimately, it is up to the institution to decide, based on regulatory requirements, what programs are TEACH Grant-eligible and when a

student is considered to be accepted into a TEACH Grant-eligible program.

Changes: None.

Comment: One commenter asked whether an institution can determine that only some of the programs for which it currently awards other Title IV aid are also eligible for TEACH Grant purposes, even if some programs it does not wish to make TEACH Grant-eligible meet the regulatory definition.

Discussion: The institution has that discretion.

Changes: None.

Comment: Based on a concern that students will apply for and accept the TEACH Grant as a way of obtaining more loan funds with no intention of fulfilling the Agreement to Serve (ATS), one commenter asked the Secretary to provide more guidance, similar to the list of acceptable Classification of Instructional Programs (CIP) codes in the National SMART Grant program, for students to determine which programs are TEACH Grant-eligible.

Discussion: We recognize that institutions may not be able to control the type of behavior the commenter describes in all instances. Although an institution may limit the programs it designates as TEACH Grant-eligible, an institution can never know with certainty whether a student truly intends to fulfill his or her service obligation. Since designation of TEACH Grant-eligible programs is an institutional decision, we do not plan to provide more specific guidance or a list of CIP codes.

Changes: None.

Comment: One commenter asked if, prior to awarding a TEACH Grant, an institution could require that a student submit a plan to the institution describing the student’s career goal and intended academic plan to that goal.

Discussion: An institution may require a student to submit a plan such as the commenter describes. This may be particularly helpful in situations where the student is enrolled in a program that will not, by itself, enable the student to begin teaching as a highly-qualified teacher in a high-need field. However, the plan by itself would not establish a student’s eligibility for a TEACH Grant. A student must be enrolled in a TEACH Grant-eligible program to receive a TEACH Grant.

Changes: None.

Comment: A few commenters wondered whether a program that prepares a student to teach in a high-need field would have to be in the high-need field in which an individual plans to teach in meeting the service obligation, or if it could contribute significantly to the TEACH Grant

recipient's knowledge and instructional capacity in a high-need field. One commenter asked whether a master's degree program that is not a teacher preparation program would need to result in a degree in a high-need field to be considered eligible.

Discussion: An institution has the authority to determine which of its programs meet the requirements to be TEACH Grant-eligible and may designate any program that contributes in any way to a student's preparation to teach in a high-need field as a TEACH Grant-eligible program. This approach would allow, for example, an institution to designate its Masters in Business Administration (MBA) Program as a TEACH Grant-eligible program that will prepare a student to teach in the high-need field of mathematics, if it determines that the content of its MBA program would be good preparation for teaching mathematics.

Changes: None.

Comment: One commenter asked whether an institution could consider as TEACH Grant-eligible a two-year program that appears unrelated to a high-need field but that will transfer fully into a four-year TEACH Grant-eligible program.

Discussion: We believe that the institution would have a basis on which to define such a program as TEACH Grant-eligible.

Changes: None.

Comment: One commenter inquired whether a two-year school could offer a TEACH Grant-eligible post-baccalaureate program.

Discussion: These regulations do not restrict the authority of an institution of higher education to offer a post-baccalaureate program. If a community college offers such a program, the community college may use this as the means of establishing its institutional eligibility for the TEACH Grant program and would not, therefore, need to enter into an agreement with a four-year institution to establish eligibility.

Changes: None.

Comment: One commenter asked whether a student who returns to the institution only for teacher certification courses would be eligible for a grant.

Discussion: A student must be enrolled in a TEACH Grant-eligible program, which could be either a post-baccalaureate program of study or a master's degree program assuming the student already has a baccalaureate degree. If the student is merely taking courses he or she needs for certification, but is not enrolled in a TEACH Grant-eligible program, then the student would not be eligible for a TEACH Grant.

Changes: None.

Comment: One commenter asked whether a current teacher who decides to pursue a master's degree in a field that would not result in that teacher adding a certified area to his or her teaching credential would be considered to be enrolled in a TEACH Grant-eligible program and, if so, if the service performed on the basis of the individual's undergraduate degree could be used to fulfill the teaching obligation associated with the TEACH Grant for the master's degree.

Discussion: An institution designates which of its programs are TEACH Grant-eligible. As long as the student is enrolled in a TEACH Grant-eligible program that student could receive a TEACH Grant. Prior experience in the field will not strip a student of his or her eligibility. However, the teaching service performed prior to enrollment in the master's degree program cannot be used to meet the service obligation associated with the TEACH Grant. Full-Time teaching service while attending school to obtain a master's degree would count toward the service obligation for any TEACH Grants that were received for an undergraduate or post-baccalaureate program. The teaching service performed while the student is enrolled may not be counted against the service obligation for the program in which the student is enrolled because the statute specifies that the student must teach "after completing the course of study for which the applicant received a TEACH Grant."

Changes: None.

Comment: One commenter asked whether a four-year baccalaureate program that does not include an education component could be considered TEACH Grant-eligible if a student is able to transfer out of it after two years, prior to declaring a major, into a teacher preparation program at the same institution or at another institution with which the student's first institution has an agreement.

Discussion: The comment addresses institutional eligibility and program eligibility. In regard to institutional eligibility, an institution that has a teacher preparation program would not need to enter into an agreement with another institution to be a TEACH Grant-eligible institution. The institution could establish eligibility on the basis of its teacher preparation program, assuming that program meets the requirements contained in paragraph (1) of the definition of TEACH Grant-eligible institution in § 686.2(d).

In regard to program eligibility, it is not a requirement that a program

include a teacher education component to be designated a TEACH Grant-eligible program. An institution may designate a program as TEACH Grant-eligible if it prepares an individual to teach as a highly-qualified teacher in a high-need field.

In this example, if the institution has designated both its program that does not include a teacher education component and its teacher preparation program as TEACH Grant-eligible, and the student is admitted to its teacher preparation program in the third year of undergraduate study, then the student would be eligible for a TEACH Grant for a total of four years. Since both of the programs in this example are TEACH Grant-eligible, the student could receive a TEACH Grant for each year of enrollment in the baccalaureate program without the education component and for each year of enrollment in the program with the teacher education component.

Changes: None.

Teacher and Full-Time Teacher

Comment: One commenter asked what a substitute teacher would need to do to meet the requirement of teaching full-time and other aspects of the service obligation.

Discussion: A substitute teacher would need to satisfy the same requirements as a regular teacher as described in § 686.12(b)(1), (2), and (3). The substitute teaching service must be in a low-income school and the substitute must teach a majority of courses in a high-need field, as a highly-qualified teacher, for it to count toward meeting the service obligation. The substitute teacher must teach enough to meet the standard used by the State in defining full-time employment as a teacher. He or she could satisfy the requirement of teaching full-time by teaching in more than one low-income school and demonstrating that the combined teaching service was the equivalent of full-time. The substitute teacher would need to provide documentation as provided in § 686.40.

Changes: None.

Comment: One commenter noted that special education teachers and reading specialists often serve other teachers as a resource or as a literacy coach and inquired whether such individuals would be considered teachers for purposes of fulfilling the service obligation.

Discussion: The definition of "teacher" specifically includes special education teachers and reading specialists. Service performed by special education teachers and reading specialists, such as serving as a literacy

coach or resource to another teacher, either in the classroom or in a classroom-like setting, meets the definition of teacher. In order to meet the requirements of the service obligation, special education teachers and reading specialists must spend the majority of time teaching in a classroom or classroom-like setting, though they may also serve as a resource for other teachers.

Changes: None.

Duration of Student Eligibility (§ 686.3)

Comment: One commenter asked whether a student who already has earned a baccalaureate degree in a non-TEACH Grant-eligible program could be considered eligible for a TEACH Grant if the student enrolled in a TEACH Grant-eligible baccalaureate degree program, since this would be that student's first such baccalaureate degree. The commenter asked the same question about post-baccalaureate programs.

Discussion: Section 420M(d)(1) of the HEA provides that a student may receive grants for the period required for the completion of the first undergraduate or post-baccalaureate course of study. In reviewing proposed § 686.3, we have determined that § 686.3 could suggest that a student who already has a baccalaureate degree in a non-TEACH Grant-eligible program would be eligible for a TEACH Grant if the student enrolled in a TEACH Grant-eligible baccalaureate degree program. However, that is not what we intended so we have clarified the regulations. An undergraduate student can get a TEACH Grant only for their first baccalaureate degree.

Post-baccalaureate programs are by definition TEACH Grant-eligible. A student can get a TEACH Grant for completion of only one post-baccalaureate program.

Changes: We amended § 686.3(a) to clarify that a student who already has completed a baccalaureate or post-baccalaureate program of study and has enrolled in a TEACH Grant-eligible baccalaureate or post-baccalaureate program of study will not be able to receive a TEACH Grant.

Comment: A commenter asked whether a student who has completed the requirements for teacher certification but elects to remain enrolled in the institution would continue to be eligible to receive TEACH Grants.

Discussion: If a student has completed the requirements for teacher certification but remains enrolled in the institution, the student's eligibility for further TEACH Grants would depend on

whether the student is still considered enrolled in his or her TEACH Grant-eligible program. If the student completed the requirements for the TEACH Grant-eligible program's degree or certificate, the student would no longer be eligible.

Changes: None.

Institutional Participation (§ 686.4)

Comment: One commenter expressed appreciation that participation in the TEACH Grant program is optional for institutions.

Discussion: We appreciate the support.

Changes: None.

Comment: One commenter suggested that the regulations should provide that if an institution ceases to participate in the TEACH Grant program, the TEACH Grant recipients at that institution would not be required to repay any TEACH Grant funds they received because it is the institution, not the student, that has withdrawn from the program.

Discussion: Whether or not the institution continues to participate in the TEACH Grant program, a grant recipient is responsible for fulfilling the terms of the ATS that he or she signed. The student would still be able to continue a program of study to become a teacher, even if the institution no longer participated in the TEACH Grant Program, though the student would not receive additional TEACH Grants for that program. In addition, the student would also have the option to transfer to another institution to get a teaching credential. If the recipient fails to meet the requirements of the ATS, the TEACH Grants will convert to a Federal Direct Unsubsidized Loan.

Changes: None.

Application (§ 686.10)

Comment: One commenter supported the Department's use of the FAFSA as the application for a TEACH Grant.

Discussion: We appreciate the commenter's support.

Changes: None.

Eligibility To Receive a Grant (§ 686.11)

Comment: Several comments were received on how admissions tests are treated as part of student eligibility for a TEACH Grant. One commenter asked whether an institution must first determine whether a student achieved a score above the 75th percentile on at least one of the batteries of a standardized admission test before determining TEACH Grant eligibility based on the student's grade point average (GPA). One commenter requested restricting admission test

scores by educational level, while another commenter supported the approach in the proposed regulations regarding how admission test scores are considered as part of student eligibility. Another commenter wanted to know how to determine a home-schooled student's eligibility if the institution does not require an admissions test. Another commenter asked whether a test used for admission is acceptable for the 75th percentile determination even if it is also used as a placement test. Clarification on which nationally-normed tests qualify a student for a TEACH Grant and how a test is determined to be nationally-normed was also requested by a commenter. Finally, one commenter asked whether, in lieu of test score submissions by the testing entity, a student may submit documentation of test scores directly to the financial aid office.

Discussion: Section 420N(a)(2)(A)(ii)(II) of the HEA requires an institution to determine whether the student displayed high academic aptitude by scoring above the 75th percentile of scores on at least one of the batteries from a nationally-normed standardized admissions test and does not restrict the use of admission test scores by undergraduate or graduate educational level. Because the test scores are intended to be a measure of high academic aptitude without being associated with a particular educational level, the Department does not believe that restricting qualification for a TEACH Grant by test score by educational level is appropriate. If the student did not achieve a qualifying test score, an otherwise eligible student may qualify based on the applicable GPA requirements.

The student's qualifying test score does not need to be used by the institution as an admissions test at that school. In addition, a student may qualify based on a score on an admissions test that doubles as a placement test at the institution. While a home-schooled student may qualify by scoring above the 75th percentile on a standardized admissions test, he or she may also qualify based on his or her high school GPA as documented by the student's parent or other cognizant authority. Any student who does not qualify by test score or GPA is not eligible for a TEACH Grant.

All nationally-normed tests are not eligible to qualify a student—only nationally-normed admission tests qualify. An admissions test is considered to be nationally-normed if the norming sample is nationally-representative, that is, individual student test performance can be

compared to a nationally-drawn peer sample. For documentation purposes, a student may submit qualifying test scores directly to the financial aid office in lieu of having the testing entity send the test scores to the institution. However, if the institution has reason to believe that the test scores submitted directly by the student are incomplete or inaccurate, the institution must request test scores from the testing entity.

Changes: None.

Comment: Three commenters expressed concern about the GPA requirement to receive a TEACH Grant. One believed that the required 3.25 GPA is too high. Another commenter suggested that students who qualified for a TEACH Grant by meeting the admission test option should still have to meet the 3.25 cumulative GPA, or numeric equivalent, through the most recently completed payment period that is required of students who did not qualify under the admission test option. Another commenter recommended that GPA be checked once per year, not once each term.

Discussion: Under section 420N(a)(2)(A)(ii)(I) of the HEA, achieving a 3.25 GPA on a 4.0 scale allows an otherwise eligible student who did not qualify via an undergraduate, postbaccalaureate, or graduate school admissions test score to qualify for a TEACH Grant. The statute does not require students who qualified using the admission test score option to maintain a 3.25 GPA in the eligible program, but does require that a student who qualified using the 3.25 cumulative GPA option to continue to maintain a GPA of at least 3.25 on a 4.0 scale. To document that such a student continues to meet the 3.25 GPA eligibility requirement, § 686.11(a)(1)(v) stipulates that the institution must check the student's GPA for the most recently completed payment period by the institution prior to disbursement.

Changes: None.

Comment: One commenter was concerned that the academic requirements to receive a TEACH Grant—qualifying test scores or GPA—would impose an additional burden on financial aid officers.

Discussion: Section 420N(a)(2)(A)(ii)(I) and (II) of the HEA established the qualifying admission test scores and GPA requirements for receiving a TEACH Grant that were reflected in the proposed regulations. Institutions are required to implement these requirements. The regulations do not specifically stipulate, however, that financial aid officers make the academic determinations. Rather, institutions

should follow their own institutional policies and procedures to ensure that these student eligibility requirements are properly administered.

Changes: None.

Comment: One commenter requested clarification on the methods by which a former teacher may qualify for a TEACH Grant.

Discussion: Under § 686.11(b), a former teacher is eligible for a TEACH Grant for a master's degree program or an alternative certification program as part of a master's degree program. In addition, a former teacher can qualify under § 686.11(a) for an eligible undergraduate, post-baccalaureate, or graduate degree program if he or she meets the academic requirements.

Changes: None.

Agreement To Serve (§ 686.12)

Comment: Many commenters were concerned that the basic elements of the ATS would be difficult for most TEACH Grant recipients to satisfy, thereby increasing the probability that the majority of TEACH Grants would convert to Federal Direct Unsubsidized Loans. The commenters stated that it was not appropriate to expect students, especially lower classmen who either have not or cannot declare a major, to make a four-year commitment to serve in a low-income school as a highly-qualified full-time teacher in a high-need field at such a young age. The commenters cited the frequency with which students change majors or career goals upon exposure to coursework or, even later, after exposure to teaching experience. One commenter suggested that the Department include, in the ATS, the fact that the Congressional Budget Office has projected that 80 percent of TEACH Grants will convert to Federal Direct Unsubsidized Loans.

Discussion: The teaching service requirements contained in the ATS and described in § 686.12(b) are mandated by section 420N(b) and (c) of the HEA. In order to receive a TEACH Grant, the HEA requires that each TEACH Grant recipient agree to serve as a full-time teacher for a total of not less than four academic years within eight years of completing the course of study for which a TEACH Grant was received in a low-income school as a highly-qualified teacher in a high-need field. The HEA further requires that a grant recipient document each year of his or her teaching service in the form of a certification by the chief administrative officer of the school in which the recipient is teaching. Lastly, the HEA provides that if the recipient fails or refuses to carry out the service obligation, any TEACH Grants received

are treated as a Federal Direct Unsubsidized Loan with interest accruing from the date that each TEACH Grant was disbursed. While we understand the commenters' concerns, the Secretary does not have the authority to change statutory requirements. We note, however, that the ATS that a TEACH Grant recipient must sign each year before receiving a TEACH Grant contains all of the terms and conditions a recipient must meet in order to prevent the grant from converting to a Federal Direct Unsubsidized Loan. Finally, the Secretary does not see the merit of including Congressional Budget Office projections in the ATS.

Changes: None.

Comment: Many commenters expressed concern that the regulations in § 686.12(b)(1) do not provide for partial fulfillment of a TEACH Grant recipient's ATS based on completion of less than four years of creditable teaching service. The commenters believed that requiring a teacher who fails to meet any part of the teaching service obligation to repay the entire amount of the grant award as a Federal Direct Unsubsidized Loan was unfair and punitive. The commenters strongly recommended that we allow TEACH Grant recipients to partially fulfill their ATS based on the number of years taught. For example, if a grant recipient received \$16,000 in TEACH Grants and completed two years of creditable teaching service in accordance with his or her ATS, the grant recipient would owe \$8,000 in TEACH Grants that would convert to Federal Direct Unsubsidized Loans.

Other commenters did not believe that a student who receives TEACH Grants for only one award year while completing coursework necessary to begin a career in teaching should be required to perform four years of creditable teaching service in order to keep the TEACH Grants from converting to Federal Direct Unsubsidized Loans. The commenters believed that the teaching service obligation should be directly proportional to the number of years of TEACH Grant support received by a student. For example, if a student receives TEACH Grants for two award years, the teaching service obligation associated with the receipt of grant funds would also be two years.

Discussion: Section 420N(b)(1) of the HEA states that a TEACH Grant recipient must serve as a full-time teacher for a total of not less than four academic years within eight years after completing the course of study for which the applicant received a TEACH Grant. The Secretary does not have the

authority to change statutory requirements to allow for partial fulfillment of an ATS based on a teaching service obligation that is directly proportional to the number of years of TEACH Grant support received by a student.

Changes: None.

Comment: One commenter stated that requiring a TEACH Grant recipient to perform creditable teaching service in a low-income elementary or secondary school is a disservice to such schools because inexperienced teachers trying to satisfy their ATS would be teaching in an environment where more experienced teachers are needed.

One commenter recommended that the final regulations provide relief to a TEACH Grant recipient who is unable to fulfill his or her ATS because there are no low-income elementary or secondary schools within a reasonable distance of the grant recipient's residence or because the grant recipient has not been hired by a low-income school.

Finally, one commenter asked whether all of the elementary or secondary schools at which a grant recipient teaches must be considered low-income to satisfy the ATS if the grant recipient's full-time status as a teacher is achieved by employment at more than one school.

Discussion: There is a shortage of teachers in elementary and secondary low-income schools that experienced teachers have not filled. The TEACH Grant program was established to address this need, among others, by providing incentives in the form of grants of up to \$4,000 per year to students who make a commitment to teach in a public or private non-profit elementary or secondary low-income school.

We believe that providing relief to a TEACH Grant recipient who does not live within a reasonable distance of a low-income school or who is not hired by a low-income school would be contrary to the intent of the TEACH Grant program. We believe that under the regulations, TEACH Grant recipients will receive enough information to make an informed choice regarding their ability to meet the requirements of the ATS, including the requirement to teach in a low-income school. Section 686.32 requires that a TEACH Grant recipient receive extensive counseling before grant funds are disbursed each year that emphasizes that by receiving TEACH Grant funds, a student is committing to a teaching service obligation. Both initial and exit counseling requirements in § 686.32(a)(3)(ii) and (c)(4)(iii), respectively, require a school to provide grant recipients with information on

how to access the Directory of Low-Income Schools so that TEACH Grant recipients can familiarize themselves with the name and location of every designated low-income school in the United States. Moreover, section 420N(b)(1)(A) of the HEA allows a TEACH Grant recipient eight years to satisfy his or her teaching service obligation of four years. This eight-year timeframe builds in four years for TEACH Grant recipients who do not begin their teaching service immediately and provides them with ample time to locate and apply to teach in a low-income elementary or secondary school.

Finally, all of the elementary or secondary schools at which a grant recipient teaches must be designated as low-income to satisfy the ATS if the grant recipient's full-time status as a teacher is achieved by employment at more than one school. This policy is consistent with the policy applied to borrowers in the Title IV, HEA loan programs with regard to teacher loan forgiveness.

Changes: None.

Comment: One commenter suggested that the Secretary include the definition of "highly-qualified teacher," or a link to a Web site that contains the definition, in the ATS developed by the Department in accordance with § 686.12 so that TEACH Grant recipients know what requirements they must meet to be considered a highly-qualified teacher and to satisfy their teaching service obligation.

Discussion: The Secretary agrees with the commenter that it is important for TEACH Grant recipients to have access to the definition of "highly-qualified teacher." We will ensure that the initial version of the ATS includes the appropriate statutory cites so that a TEACH Grant recipient can research the definition of highly-qualified teacher. We will consider other options for providing this information when the Agreement is revised in the future.

Changes: None.

Comment: One commenter supported the provisions of § 686.12(c)(1) that allow creditable teaching service to apply to more than one ATS.

One commenter believed that § 686.12(c)(1) should allow a student to incur only one ATS, instead of one ATS for each program of study for which a student received TEACH Grants, if a student must complete both a baccalaureate and a post-baccalaureate degree in order to begin a career in teaching.

Another commenter requested that we clarify whether a teacher who received Stafford Loans as an undergraduate and

who successfully completed five years of teaching service to obtain loan forgiveness on those loans could use the same teaching service to immediately satisfy an ATS associated with the receipt of TEACH Grants for a subsequent master's degree.

Discussion: The Secretary agrees that, under certain circumstances, it is appropriate to apply creditable teaching service to more than one ATS and appreciates the commenter's support for this provision. For instance, if a grant recipient completes a TEACH Grant-eligible program at a TEACH Grant-eligible institution and immediately enrolls in another TEACH Grant-eligible program at a TEACH Grant-eligible institution before beginning a career in teaching, the recipient may request a suspension of the eight-year time period under § 686.41(a)(1) for the period of enrollment in the subsequent program and upon completion of the subsequent program, apply all qualified teaching service to both service obligations.

Another example would be when a grant recipient completes a TEACH Grant-eligible program at a TEACH Grant-eligible institution and begins qualified teaching service to meet the service obligation before enrolling in a subsequent TEACH Grant-eligible program. In this case, the recipient may request a suspension of the eight-year time period associated with the first service obligation under § 686.41(a)(1) for the period of enrollment in a subsequent program and, upon completion of the subsequent program, apply qualified teaching service performed after the completion of the subsequent program to both service obligations. The qualified teaching service performed before the suspension would count only toward fulfillment of the first service obligation.

The requirement in § 686.12(c)(1) that a TEACH Grant recipient must complete an ATS for each program of study for which the recipient received a TEACH Grant is based on section 420N(b)(1)(A) of the HEA. The Secretary does not have the authority to change a statutory requirement.

Lastly, a TEACH Grant recipient can use only prospective, creditable teaching service performed after the student completed or ceased to be enrolled in the program for which the TEACH Grant was received to satisfy the requirements of the ATS, not teaching service performed before or during the time the student received a TEACH Grant.

Changes: None.

Comment: One commenter believed that § 686.12(b)(2), which requires a TEACH Grant recipient to annually

submit documentation of creditable teaching service in the form of a certification by a chief administrative officer of the school, should provide protection to TEACH Grant recipients who fail to provide such documentation in a timely manner.

Discussion: A TEACH Grant recipient must annually submit documentation of his or her teaching service or intent to teach within a timeframe necessary to keep the TEACH Grants from converting to Federal Direct Unsubsidized Loans in accordance with the provisions of §§ 686.40 and 686.43. The Secretary believes that these timeframes are reasonable for grant recipients to meet and protect the Federal fiscal interest by allowing for the conversion of TEACH Grants to loans when the Secretary cannot verify or document a grant recipient's intent to satisfy the ATS.

Changes: None.

Comment: Several commenters recommended that the Secretary amend § 686.12(d) to allow a TEACH Grant recipient who completes a TEACH Grant-eligible program in a field that is listed in the Nationwide List to satisfy the requirement to teach in a high-need field if the high-need field in which he or she prepared to teach is no longer listed in the Nationwide List for the State in which the grant recipient begins teaching. The commenters believed that a TEACH Grant recipient, who in good faith undertakes the coursework necessary to teach in a designated high-need field, should not be punished for circumstances that are beyond his or her control.

Discussion: The HEA specifically states in section 420N(b)(1)(C) that a TEACH Grant recipient must "teach" in a high-need field in accordance with their ATS. We do not have the authority to allow a TEACH Grant recipient who completes a TEACH Grant-eligible program in a field that is listed in the Nationwide List to satisfy the requirement to teach in a high-need field if the high-need field in which he or she prepared to teach is no longer considered a high-need field in the recipient's state and is no longer included in the Nationwide List for the State in which the grant recipient begins teaching. If the high-need field in which a TEACH Grant recipient prepared to teach is included in the Nationwide List for a State other than the State in which the grant recipient planned to teach, the grant recipient may apply to teach in that State in order to fulfill his or her ATS.

Changes: None.

Comment: Several commenters were concerned that TEACH Grant recipients who intend to become elementary

school teachers may not be able to meet their teaching service obligation because, as elementary school teachers, they may not be able to teach the majority of their classes in high-need fields as required by § 686.40(c)(1). The commenters suggested that § 686.12 specifically state how elementary school teachers can demonstrate that they are teaching in high-need fields.

Another commenter suggested that, because the purpose of the TEACH Grant program is to provide an incentive to get highly-qualified teachers into low-income schools, it would be consistent with this purpose for the Secretary to define all classroom teaching in elementary schools that includes math, science, and other defined high-need fields as qualifying teaching service in a high-need field.

One commenter suggested that the ATS include information alerting TEACH Grant recipients who intend to become elementary school teachers that they may not be able to meet their teaching service obligation to teach the majority of their classes in high-need fields so that students in a TEACH Grant eligible program can make a more informed decision regarding receipt of a grant.

Discussion: Section 420N(b)(1)(C) of the HEA requires that a TEACH Grant recipient enter into an agreement in which he or she commits to teach in mathematics, science, a foreign language, bilingual education, special education, as a reading specialist, or in any other high-need field documented by the Federal government or a State or local government and approved by the Secretary in exchange for the grant. In recognition of the fact that TEACH Grant recipients who intend to become elementary school teachers may not be able to meet the requirement to teach in a high-need field because of the nature of elementary school curriculum, §§ 686.12(b)(1)(iii) and 686.40(c)(1)(i) and (ii) permit a teacher to fulfill the requirement to teach in a high-need field if the majority of classes taught are in a high-need field. We believe that these provisions sufficiently address how an elementary school teacher can meet the requirements of his or her ATS.

Because the statute requires a TEACH Grant recipient to teach in a high-need field, we do not believe that we have the authority to interpret this provision to consider all classroom teaching in elementary schools that includes math, science, and other defined high-need fields as qualifying teaching service in a high-need field.

We also do not believe that it is appropriate to include a warning in the

ATS that TEACH Grant recipients who intend to become elementary school teachers may not be able to meet their teaching service obligation unless they teach the majority of their classes in high-need fields. Instead, we will make it clear in the ATS that a teacher may fulfill the requirement to teach in a high-need field if the majority of classes taught are in a high-need field.

It is important to note in this discussion that an elementary school teacher can also satisfy the requirement to teach in a high-need field if the State in which he or she teaches designates "elementary school teachers" as a high-need field. In this case, the designation alone satisfies the requirement to teach in a high-need field, regardless of whether the majority of the classes taught by the grant recipient were taught in a high-need field. An elementary school teacher can also satisfy the requirement to teach in a high-need field if he or she is a full-time teacher in mathematics, science, a foreign language, bilingual education, or special education or is a reading specialist.

Changes: None.

Submission Process and Deadline for a SAR or ISIR (§ 686.20)

Comment: One commenter asked how an institution would have an official EFC computed by the Central Processing System (CPS) and an accurate EFC without having a valid SAR or valid ISIR. The commenter also questioned whether the intent of the proposed regulations was to provide for an institutional or third-party need analysis.

Discussion: As with the other Title IV, HEA programs, the EFC must be calculated using the Federal methodology need analysis provided in Title IV, Part F of the HEA (Federal Methodology). An institution may receive an official EFC computed by CPS that is not based on accurate information. To determine the amount of a student's TEACH Grant in accordance with § 686.21(c), an institution would need an EFC based on accurate information, even if the EFC is not computed by CPS. In lieu of a CPS-calculated EFC based on information from a valid SAR or valid ISIR, an institution may hand-calculate a Federal Methodology EFC based on accurate information, or the institution may use a vendor's product to calculate a Federal EFC. An institution may not use the EFC of a need analysis methodology other than the Federal Methodology.

Changes: None.

Calculation of a Grant and Calculation of a Grant for a Payment Period (§§ 686.21 and 686.22)

Comment: One commenter was concerned with the relationship between payments for payment periods and a student's TEACH Grant Scheduled Awards. The commenter cited the example of a program that operates on a quarter schedule with three quarters in the fall through spring and a summer quarter, each with 11 weeks of instructional time, and the summer quarter is treated as part of the prior award year. In this example, the institution has defined its academic year as being 44 weeks of instructional time and 48 quarter hours and uses the payment methodology described in § 686.22(b), commonly referred to as Formula 1. A student attends three quarters starting in the fall quarter, full-time for the first quarter and half-time for the winter and spring quarters, and receives TEACH Grant disbursements of \$1,000, \$500, and \$500 for each of the respective terms from an initial Scheduled Award. The commenter questioned whether the payment for full-time attendance in the following summer term would be \$1,000 or the \$2,000 balance of the Scheduled Award and, if the amount was \$1,000, what would be the disposition of the remaining \$1,000 of the student's Scheduled Award and future Scheduled Awards.

Discussion: In a manner similar to the Academic Competitiveness Grant (ACG) and National SMART Grant programs, and unlike the Federal Pell Grant program, a TEACH Grant Scheduled Award is not limited to an award year and remains available to a student until that Scheduled Award is completely disbursed. Payments of a Scheduled Award are calculated by payment period as provided in §§ 686.22 and 686.25.

In the commenter's example, the student would receive a \$1,000 disbursement in the summer term, the payment for the payment period as calculated under § 686.22(b). The remaining balance of \$1,000 from the Scheduled Award remains available for the next payment period in which the student enrolls. As an example, assume a student is otherwise TEACH Grant-eligible and enrolls in the subsequent fall and winter quarters as a half-time student and then in the spring quarter as a full-time student. The student would receive \$500 payments for the fall and winter quarters from the initial Scheduled Award partially disbursed in the prior award year and would complete the use of that Scheduled

Award. In the subsequent spring quarter, the student would receive an initial \$1,000 disbursement from the student's next Scheduled Award.

Changes: None.

Comment: One commenter asked for clarification of the relationship between the payment methodologies to calculate a grant under §§ 686.22 and 686.25 and the requirement that the grant, in combination with Federal and other student financial assistance that a student may receive, may not exceed the Title IV, HEA program cost of attendance (COA). The commenter also questioned the relationship between annual awards that take into account part-time attendance and full-time COA and part-time COA in determining the amount of a student's TEACH Grant. The commenter suggested that it would be simpler to follow the model of determining payments under the campus-based programs (*i.e.*, Federal Perkins Loan Program and Federal Supplemental Educational Opportunity Grant Program).

Discussion: An institution is required to calculate a TEACH Grant payment for each payment period. However, if the student's TEACH Grant in combination with other aid for the enrollment period covered by the aid, *e.g.*, a one-term period of enrollment, exceeds the student's COA for the enrollment period, the payment of the TEACH Grant must be reduced. This same principle would hold true in the treatment of a part-time COA in combination with a part-time TEACH Grant payment for a period of enrollment covered by the aid and COA.

Section 401M(c)(1) of the HEA requires that a student's TEACH Grant payments must be reduced if the student is not attending full-time. The amount of the grant is reduced in proportion to the degree to which the student is not attending on a full-time basis. Similar adjustments must be made in the Federal Pell Grant, ACG, and National SMART Grant programs. There is no comparable adjustment required under the HEA for the campus-based programs. These regulations, therefore, use the same methodologies for calculating a payment for a payment period as do the Federal Pell Grant, ACG, and National SMART Grant programs.

Changes: None.

Comment: One commenter sought confirmation that it is the institution's option to use the grant as a replacement for EFC.

Discussion: Under § 686.21(d), an institution is not required to replace a student's EFC with a TEACH Grant. If an institution does replace a student's

EFC with a TEACH Grant, the amount of the grant that exceeds the student's EFC is considered estimated financial assistance under 34 CFR 673.5(c).

Changes: None.

Determination of Eligibility for Payment (§ 686.31)

Comment: Several commenters expressed concern about the requirement in § 686.31(a)(2) that for each payment period, an institution may pay a TEACH Grant to an eligible student only after determining that the student has completed the relevant counseling. The commenters interpreted this provision to require recipients to receive counseling prior to each grant disbursement, which they believe to be excessive.

Discussion: We intended § 686.31(a)(2) to require institutions to ensure that initial counseling is conducted prior to making the first disbursement of the student's first TEACH Grant and subsequent counseling is conducted prior to making the first disbursement of any subsequent TEACH Grant. Because these counseling requirements are triggered only by the first disbursement of a TEACH Grant, they are only required annually. For clarity, we have amended § 686.31(a)(2) to reflect the annual nature of the counseling.

Changes: Section 686.31(a)(2) is amended by adding the words "initial or subsequent" before "counseling".

Counseling Requirements (§ 686.32)

Comment: We received several comments suggesting that the TEACH Grant counseling requirements reflected in § 686.32 will place an additional burden on financial aid offices. Some commenters requested that the Department develop counseling materials for institutions to use or develop and make available to students applying for a TEACH Grant an online, interactive counseling program. One commenter requested that the Department make an online counseling program a priority so that it could be available for the 2008–2009 award year. A few commenters suggested that required counseling could be electronically connected to the ATS, which the student will complete online. Another commenter noted that many students already resist current financial aid counseling that is offered and, for that reason, they do not believe that students will embrace the additional TEACH Grant counseling requirements. One commenter supported comprehensive counseling while another commenter asked the Department to eliminate the subsequent

counseling requirements in § 686.32(b) altogether.

One commenter asked the Department to add a requirement that students have documentation, either from the Department or from a college financial aid office, showing that they completed the required counseling before an institution can disburse the TEACH Grant. Another commenter asked the Department to clarify what the timeframe is in which counseling must be provided to students. Finally, one commenter noted that there are slight differences between the TEACH Grant counseling requirements and the Stafford Loan counseling requirements and asked the Department to clarify whether or not these differences are intentional.

Discussion: We appreciate the administrative burden associated with the counseling requirements, but we strongly believe that extensive counseling is necessary given the complex nature of the TEACH Grant program and, in particular, the potential for a grant under this program to convert to a Federal Direct Unsubsidized Loan. As mentioned in the preamble to the NPRM, the Department and the non-Federal negotiators who participated in the negotiated rulemaking sessions for the TEACH Grant program agreed that students should be given as much information as possible about the TEACH Grant program and its requirements. The Department believes that providing initial counseling for students is necessary so that each TEACH Grant recipient understands the rights and responsibilities that are attached to a grant award. Subsequent counseling sessions remind students of those rights and responsibilities. Exit counseling reminds students about their service obligation and gives them information similar to that given to loan recipients when they leave school. Students who do not complete the initial or subsequent counseling requirements, whichever is appropriate, will not be eligible to receive a TEACH Grant. Thus, students who are interested in receiving a TEACH Grant will have to complete the annual counseling requirement regardless of whether or not they agree with the requirement.

The Department intends to provide online, interactive counseling that will be connected to the ATS. Once this online counseling is in place, students will be required to complete it before they can access and sign the ATS. Because students who do not complete an ATS are not eligible to receive a TEACH Grant, this ensures that all recipients will have completed the counseling. Unfortunately, the

Department will not be able to provide online counseling during the 2008–2009 award year, but we are hopeful that online counseling will be available beginning with the 2009–2010 award year.

Under § 686.32, an institution is required to ensure that initial, subsequent, and exit counseling is provided, as appropriate, to each TEACH Grant recipient. Institutions, therefore, will be required to provide counseling until the Department makes an online TEACH Grant counseling program available. At that time, to fulfill the requirements of § 686.32, institutions will be responsible not for providing the counseling, but instead for ensuring that the necessary counseling has been provided (*i.e.*, obtaining documentation evidencing that the student received appropriate counseling).

To provide institutions as much flexibility as possible, the Department has decided not to require institutions to collect a specific form from students to show that they have completed the required counseling. However, institutions can require their students to submit a specific form, if they choose. Once the Department begins to offer online counseling with the ATS, students will be able to print off a copy of the ATS, which could serve as proof that they have completed the online counseling (they will be unable to access and sign the ATS without first completing the online counseling session). If it chooses, an institution can request that each student provide a copy of his or her completed ATS for that student's file. Also, nothing in the regulations prohibits institutions from requiring students to receive additional in-person counseling, prior to receiving a TEACH Grant.

The regulations indicate that an institution must ensure that a student receives either initial or subsequent counseling, whichever is appropriate, prior to the first disbursement of the grant award. While the Department would prefer that institutions provide initial and subsequent counseling to students before the students sign an ATS, we realize that this could be difficult and so the Department did not specify in the regulations the specific timeframe in which counseling must take place. We believe that this gives institutions flexibility and will allow them to provide counseling at a time that best suits their needs and the needs of their students so long as students receive counseling before the first disbursement of the TEACH Grant.

The Department used the current counseling requirements for the William

D. Ford Federal Direct Loan Program as an example when formulating the TEACH Grant counseling requirements. However, the requirements for the Direct Loan Program and the TEACH Grant program do differ slightly. These differences are intentional. For example, the initial counseling requirements for the Direct Loan Program state that the initial counseling must explain the use of a Master Promissory Note (MPN) whereas, because the TEACH Grant program does not use a MPN, this requirement is not included in the TEACH Grant counseling requirements. Also, the exit counseling section of the Direct Loan regulations states that the exit counseling must inform the student borrower of the average anticipated monthly payment amount based on the student's overall indebtedness or on the average indebtedness of Direct Subsidized Loan and Federal Direct Unsubsidized Loan borrowers at the same school or in the same program of study. In the TEACH Grant regulations the Department requires that exit counseling inform the student of the average anticipated monthly amount based only on the student's TEACH Grant indebtedness, which could be in addition to any other loan indebtedness that the student may incur. This is due to the fact that institutions will not have an average indebtedness of TEACH Grant recipients. Most TEACH Grants that convert to a loan will not do so until several years after a TEACH Grant recipient has left the institution.

Changes: None.

Recalculation of TEACH Grant Award Amounts (§ 686.35)

Comment: One commenter suggested that we change the title of this section to "Recalculation of eligibility for TEACH Grant award" to be consistent with a similar section of the Pell Grant Program regulations.

Discussion: The Secretary agrees that the heading for this section should reflect better the substance of the section. Under this section, an institution can recalculate the amount of a TEACH Grant award in response to changes in the student's enrollment status and changes in the student's cost of attendance.

Changes: The section heading of § 686.35 is changed to "Recalculation of TEACH Grant award amounts."

Documenting the Service Obligation (§ 686.40) and Periods of Suspension (§ 686.41)

Comment: None.

Discussion: After negotiated rulemaking was completed, the Department learned that two new

military family leave provisions were added to the Family and Medical Leave Act (FMLA) by the National Defense Authorization Act Fiscal Year 2008 (Pub. L. 110-181) and that the Department of Labor was in the process of receiving public comment on an NPRM for the FMLA implementing regulations, which included a description of the new military family leave provisions, a discussion of the issues, and a series of questions seeking public comment on subjects and issues to be addressed in final regulations. The Secretary committed in the TEACH Grant NPRM to consult with the Department of Labor when developing TEACH Grant final regulations so that the provisions in §§ 686.40(e)(1) and 686.41(a)(1) would accurately reflect qualifying reasons for leave under the FMLA, including qualifying leave reasons under the new military family leave provisions. At the time of publication of the final TEACH Grant program regulations, the Department of Labor was still reviewing the comments received on the FMLA NPRM and had not published revised final regulations.

Additionally, it was brought to our attention that references to “conditions covered under the FMLA” could imply that the coverage, eligibility, notification, certification and other provisions of the FMLA might need to be met in order for the condition to be one which merited extension of the pay back time. It is not our intention that other qualifying criteria for employees to take leave under the FMLA apply, or even that leave be taken as a result of such condition. The criteria will be met if a TEACH Grant recipient is unable to meet obligations of the grant due to a condition that would be a qualifying reason for leave under the FMLA. Moreover, because the FMLA may change, as it did in 2008, by Congressional action in the future, we believe that it is appropriate for the TEACH Grant regulations to reference the applicable provisions of the FMLA, rather than to repeat those provisions in the text of the TEACH Grant program regulations. We believe that these references will be a more accurate source of information for TEACH Grant recipients who are seeking a suspension from the Secretary of the eight-year period for completion of the service obligation when complying with §§ 686.40 and 686.41 of the TEACH Grant regulations based on a condition that would be considered a qualifying reason for leave under the FMLA.

Changes: We have amended §§ 686.40 and 686.41 by removing the “list of conditions covered” by the FMLA and adding, in its place, a reference to

qualifying reasons for leave under the FMLA (29 U.S.C. 2612(a)(1) and (3)).

Periods of Suspension (§ 686.41)

Comment: Several commenters supported the addition of suspension periods to the TEACH Grant program as a measure of protection for grant recipients who, for reasons beyond their control, need an extension of the eight-year period for completion of the teaching service obligation.

Discussion: The Secretary appreciates the commenters’ support.

Changes: None.

Comment: Several commenters suggested that § 686.41(b) be amended to allow TEACH Grant recipients to request a suspension within a 12-month period—rather than a 6-month period—after the date that they either stop teaching or complete or otherwise cease enrollment in a TEACH Grant-eligible program.

Another commenter noted that under current § 686.41(b), a TEACH Grant recipient must request a suspension within six months of ceasing enrollment in a TEACH Grant-eligible program and that this period of time conflicts with the trigger for conversion of a TEACH Grant to a Federal Direct Unsubsidized Loan in § 686.43(a)(2) because, under that provision, conversion occurs within 120 days of ceasing enrollment in the TEACH Grant-eligible program if the grant recipient fails to notify the Secretary that he or she is teaching or still intends to teach full-time in accordance with the ATS. The commenters suggested that the Secretary synchronize the timeframes for requesting a suspension and the timeframes under which a TEACH Grant could convert to a Federal Direct Unsubsidized Loan so that a grant is not converted to a loan before the TEACH Grant recipient has an opportunity to request a suspension.

Discussion: We agree that the deadline by which a TEACH Grant recipient must request a suspension and the time that a TEACH Grant may convert to a Federal Direct Unsubsidized Loan should not conflict. However, we do not believe that amending the regulations to require TEACH Grant recipients to request a suspension within 12 months of completing or ceasing enrollment in a TEACH Grant-eligible program or stopping teaching service is appropriate because such a change would not resolve the conflicts between § 686.41(b), which gives a student 12 months to request a suspension, and § 686.43(a)(2), under which a TEACH Grant could convert to a Federal Direct Unsubsidized Loan 120 days after the

recipient completes a TEACH Grant-eligible program if the student does not notify the Secretary.

To address the potential conflict, we amended § 686.41(b) in two ways: (1) By removing the requirement that a TEACH Grant recipient make a request for a suspension within six months of completing or otherwise ceasing enrollment or after he or she stops teaching; and (2) by adding, in its place, a requirement that a TEACH Grant recipient request a suspension prior to being subject to any of the conditions under § 686.43(a)(1) through (a)(5) that would cause the TEACH Grant to convert to a Federal Direct Unsubsidized Loan. With these changes, a suspension request would have to be made by the TEACH Grant recipient within 120 days of ceasing enrollment in a TEACH Grant-eligible program if the grant recipient has failed to confirm with the Secretary, within the 120-day period, that he or she is or intends to be employed full-time in accordance with the terms and conditions of the student’s ATS. If the recipient notifies the Secretary in accordance with § 686.40(a), he or she still may request a suspension, but must do so before any of the conditions identified in § 686.43(a)(1), (a)(3), (a)(4), and (a)(5) occur.

Changes: We amended § 686.41(b) to require that a grant recipient must apply for a suspension prior to being subject to any conditions in § 686.43(a)(1) through (a)(5) that would convert the TEACH Grant to a Federal Direct Unsubsidized Loan.

Comment: One commenter asked if it would be appropriate to add the phrase “as a highly-qualified teacher” to the end of § 686.41(a)(1)(i). The commenter believed this additional language would assist a TEACH Grant recipient by broadening the circumstances under which a suspension can be requested to include enrollment in programs that confer the status of “highly qualified.”

Discussion: We do not believe it is necessary to add the phrase “as a highly-qualified teacher” to the end of § 686.41(a)(1)(i). If a student is seeking a suspension to enroll in a program of study that has been determined by a State to satisfy the requirements for certification or licensure to teach in the State’s elementary or secondary schools, the program’s course work must address the State-determined standards for highly-qualified teachers by definition.

Changes: None.

Obligation To Repay the Grant (§ 686.43)

Comment: One commenter asked if the counseling requirements in § 686.32

require an institution to determine when a TEACH Grant converts to a Federal Direct Unsubsidized Loan and, if so, whether an institution would be required to participate in the Federal Direct Loan Program in order to participate in the TEACH Grant program.

Discussion: The Secretary will determine when a TEACH Grant converts to a Federal Direct Unsubsidized Loan in accordance with § 686.43(a). The counseling requirements in § 686.32 in no way require an institution that participates in the TEACH Grant program to convert a TEACH Grant to a loan. Moreover, nothing in the TEACH Grant program regulations requires institutions that participate in the TEACH Grant program to participate in the Direct Loan Program. Under § 686.40(a), it is the responsibility of the TEACH Grant recipient to notify the Secretary within 120 days of completing or ceasing enrollment in a TEACH Grant-eligible program and annually thereafter about his or her plans to satisfy the ATS, to request a suspension, and to document creditable teaching service. The Secretary will track a TEACH Grant recipient's enrollment status and progress in meeting the terms and conditions of the recipient's ATS and will determine if and when a TEACH Grant converts to a Federal Direct Unsubsidized Loan based on this information.

Changes: None.

Comment: Several commenters were concerned that no appeal process is available to a TEACH Grant recipient whose TEACH Grant converts to a Federal Direct Unsubsidized Loan. The commenters believed that the regulations should provide for an appeal process so that a TEACH Grant recipient's individual circumstances that caused the recipient to fail to satisfy the terms and conditions of his or her ATS could be evaluated or so that a conversion of a TEACH Grant to a loan that was done in error could be corrected.

Discussion: We do not believe that an appeals process is necessary because a number of protections are already built into the TEACH Grant program. First, under the HEA, recipients have eight years to complete a four-year service obligation—this builds in four extra years for recipients with “mitigating circumstances” to satisfy their service obligation. Moreover, suspensions of the service obligation requirements are available under a number of defined situations a recipient could face. For example, § 686.41(a) provides up to three years of eligibility for a suspension

of the eight-year period in which a TEACH Grant recipient has to satisfy the conditions of his or her ATS based on enrollment in a TEACH Grant-eligible program or a program of study to obtain a State license to teach, or a condition that is a qualifying reason for leave under the FMLA. TEACH Grant recipients also may request a suspension for an unlimited period of time to meet certain military obligations. Finally, if a TEACH Grant is converted to a Federal Direct Unsubsidized Loan in error, the grant recipient may contact the Department of Education's Student Loan Ombudsman or other Department staff to resolve the matter.

Changes: None.

Comment: Several commenters recommended that the regulations permit a TEACH Grant recipient to cancel the TEACH Grant within a reasonable timeframe. The commenters noted that otherwise, a TEACH Grant recipient would be required to request conversion of the TEACH Grant to a Federal Direct Unsubsidized Loan under § 686.43(a)(1) if the recipient decided that he or she does not want the TEACH Grant.

Discussion: We agree that a TEACH Grant recipient should be able to cancel all or part of a TEACH Grant within a reasonable time without having to request that the TEACH Grant be converted to a Federal Direct Unsubsidized Loan. We have added a new paragraph (e) to § 686.31 and amended 34 CFR 688.165 to require that an institution provide the same notices and cancellation opportunities to TEACH Grant recipients that it provides to borrowers in the Title IV, HEA loan programs.

Changes: We have added a new paragraph (e) to § 686.31 of the TEACH Grant program regulations and amended 34 CFR 688.165(a)(2) to provide that, before disbursing a TEACH Grant for any award year, an institution must notify the student of the amount of TEACH Grant funds that the student is eligible to receive, how and when those funds will be disbursed, and the student's right to cancel all or a portion of the TEACH Grant. Under § 686.31(e)(1)(ii) and 34 CFR 688.165(a)(4), an institution must also return the TEACH Grant proceeds, cancel the TEACH Grant, or do both, if the institution receives a TEACH Grant cancellation request from the student no later than the first day of a payment period or 14 days after the date it notifies the student of his or her right to cancel all or a portion of a TEACH Grant. Under § 686.31(e)(2)(i) and 34 CFR 688.165(a)(4)(iii), if a student

requests cancellation of a TEACH Grant after the first day of a payment period or 14 days after the date the institution notifies the student of his or her right to cancel, but within 120 days of the TEACH Grant disbursement date, the institution may return the TEACH Grant proceeds or cancel the TEACH Grant, or both. Finally, under § 686.31(e)(2)(ii), if the institution does not return the TEACH Grant proceeds, or cancel the TEACH Grant, the institution must notify the student that he or she may contact the Secretary to request that the TEACH Grant be converted to a Federal Direct Unsubsidized Loan.

Comment: One commenter stated that interest should begin accruing on the date that a TEACH Grant is converted to a Federal Direct Unsubsidized Loan, not on the date that the TEACH Grant was disbursed.

Discussion: Section 420N(c) of the HEA provides that interest accrues from the date that a TEACH Grant was disbursed. The Secretary does not have the authority to change this statutory requirement.

Changes: None.

Comment: One commenter asked whether the Department would assess origination or insurance fees on a Federal Direct Unsubsidized Loan that was originally a TEACH Grant.

Discussion: The Secretary has no plans to assess origination or insurance fees on a Federal Direct Unsubsidized Loan that was originally a TEACH Grant.

Changes: None.

Comment: One commenter supported § 686.43(b), which exempts TEACH Grants that convert to Federal Direct Unsubsidized Loans from annual and aggregate loan limits, as an appropriate protection for TEACH Grant recipients who, for reasons beyond their control, may be unable to satisfy their ATS but still may need Federal student aid. Another commenter stated that the regulations exempting TEACH Grants that convert to Federal Direct Unsubsidized Loans from annual loan limits is unwise because students who have no plans to teach may accept TEACH Grants as a means of borrowing more than current annual loan limits allow.

Discussion: There are many reasons why a TEACH Grant recipient may be unable to fulfill his or her ATS, thereby triggering conversion of TEACH Grants to Federal Direct Unsubsidized Loans. In some cases, TEACH Grant recipients whose grants convert to Federal Direct Unsubsidized Loans might immediately exceed aggregate loan limits and be declared ineligible for further Title IV, HEA aid until the loans are paid down.

The Secretary believes this approach is overly punitive.

As discussed earlier in this preamble, although an institution may limit the programs it designates as TEACH Grant-eligible, an institution can never know with certainty whether a student truly intends to fulfill his or her service obligation or whether the student applies for and receives a TEACH Grant only to circumvent loan limits in the Direct Loan Program. We also believe that the extensive counseling and materials provided to TEACH Grant recipients will ensure that only those students who intend to teach receive TEACH Grants.

Changes: None.

Comment: One commenter recommended that we amend the regulations in § 686.43(c) to provide a grace period for a grant recipient whose TEACH Grant has been converted to a Federal Direct Unsubsidized Loan. The commenter stated that the purpose of a grace period is to allow adequate time for a graduate to find employment before beginning repayment. The commenter believed that it was unfair to expect a TEACH Grant recipient to begin repayment immediately.

Discussion: The Secretary agrees with the commenter. We have reviewed our initial budget assumptions and have determined that there is no cost associated with making a change to the final regulations and providing a grace period in § 686.43(c) to a grant recipient whose TEACH Grant has been converted to a Federal Direct Unsubsidized Loan. The provision of a grace period to a TEACH Grant recipient whose grant has converted to a loan also mirrors the terms of the Direct Loan Program with regard to entering repayment.

Changes: We have amended § 686.43(c) to provide a grace period for a grant recipient whose TEACH Grant has been converted to a Federal Direct Unsubsidized Loan.

Comment: One commenter recommended that § 686.43(c) specify that a grant recipient who is in school when his or her TEACH Grant converts to a Federal Direct Unsubsidized Loan is eligible for an in-school deferment so that such students do not have to begin making payments immediately upon conversion of the TEACH Grant.

Discussion: A grant recipient whose TEACH Grant has been converted to a Federal Direct Unsubsidized Loan is eligible for most of the benefits of the Direct Loan Program. These benefits include an in-school deferment as long as the borrower is eligible under 34 CFR 685.204(b)(1). We agree that the regulations should highlight this benefit so that TEACH Grant recipients who are

in school at the time of conversion are aware of it.

Changes: We have amended § 686.43(c)(2) by adding the words “, including an in-school deferment” at the end of the paragraph.

Executive Order 12866

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is “significant” and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may (1) have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an “economically significant” rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive order.

Pursuant to the terms of the Executive Order, it has been determined that this regulatory action will have an annual effect on the economy of more than \$100 million. Therefore, this action is “economically significant” and subject to OMB review under section 3(f)(1) of Executive Order 12866. Accordingly, the Secretary has assessed potential costs and benefits of this regulatory action and has determined the benefits justify the costs.

Need for Federal Regulatory Action

As discussed in the NPRM, these regulations are needed to implement provisions of the HEA, as amended by the CCRAA, that established the TEACH Grant program. The Secretary has exercised limited discretion in implementing the CCRAA provisions in the following areas:

- *Definition of elementary and secondary academic year:* The CCRAA provides that a grant recipient must serve as a full-time teacher for a total of not less than four academic years within eight years after completing the program of study for which he or she received a TEACH Grant.

- *TEACH Grant-eligible institution:* The CCRAA provides that an eligible institution for purposes of the TEACH Grant program must be an institution of higher education as defined in section 102 of the HEA that is financially responsible and that provides: High-quality teacher preparation and professional development services, including extensive clinical experience as part of pre-service preparation; pedagogical coursework, or assistance in the provision of such coursework; and supervision and support services to teachers, or assistance in the provision of such services, or that provides a post-baccalaureate program of instruction.

- *Calculation of Grade-Point Average for Transfer Students:* The CCRAA requires students to have a grade-point average of 3.25 on a 4.0 scale to be eligible to receive a TEACH Grant; and

- *Counseling:* The CCRAA requires schools to provide counseling at a number of points to provide participating students with information on the program and, in particular, to underscore the student’s responsibilities in the event the program’s service requirements are not fulfilled.

- *Discharge of Service Agreement:* The CCRAA does not address the discharge of a service obligation if a TEACH Grant recipient dies or becomes totally and permanently disabled.

The following section addresses the alternatives that the Secretary considered in implementing these discretionary portions of the CCRAA provisions.

Regulatory Alternatives Considered

A broad range of alternatives to the regulations was considered as part of the negotiated rulemaking process. These alternatives were reviewed in detail in the preamble to the NPRM under both the *Regulatory Impact Analysis* and the *Reasons* sections accompanying the discussion of each proposed regulatory provision. To the extent they were addressed in response to comments received on the NPRM, alternatives are also considered elsewhere in the preamble to these final regulations under the *Discussion* sections related to each provision. No comments were received related to the *Regulatory Impact Analysis* discussion of these alternatives.

Net Budget Impacts

As noted in the NPRM, the TEACH Grant program is estimated to have a net budget impact of \$7 million in 2008 and \$74 million over FY 2008–2012. For budget, financial management, and cost estimation purposes, TEACH Grants will be operated as a loan program with

100 percent forgiveness of outstanding principal and interest upon completion of a student's service obligation. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for this program reflect the estimated net present value of all future non-administrative Federal costs associated with awards made in a given fiscal year. Details on how these estimates were developed are provided in the *Regulatory Impact Analysis* section of the NPRM.

The administrative burden associated with §§ 686.4, 686.11, 686.32, and 686.34 of the TEACH Grant final regulation package has been estimated in accordance with the Paperwork Reduction Act of 1995 and Bureau of Labor Statistics wage information. The total increase in PRA burden associated with the regulations is estimated to be \$2.6 million. This amount is comprised of \$1.6 million in determining eligibility to receive a grant, \$997,245 in complying with counseling requirements, \$1,589 in determining institutional eligibility, and \$16,775 in covering liability for and recovery of overpayments.

Assumptions, Limitations, and Data Sources

Because these regulations largely restate statutory requirements that would be self-implementing in the absence of regulatory action, impact estimates provided in the preceding section reflect a pre-statutory baseline in which the CCRAA and other statutory changes implemented in these regulations do not exist. Costs have been quantified for five years.

In developing these estimates, a wide range of data sources were used, including the National Student Loan Data System, operational and financial data from Department of Education systems, and data from a range of surveys conducted by the National Center for Education Statistics, such as the Baccalaureate and Beyond, Schools and Staffing, and the 1996 Beginning Postsecondary Student surveys. No comments or additional data were received related to the estimates or discussions included in the NPRM.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection requirements. See the heading *Paperwork Reduction Act of 1995*.

Accounting Statement

As required by OMB Circular A-4 (available at <http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf>), in Table 2 below, we

have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these regulations. Expenditures are classified as transfers to postsecondary students.

TABLE 2.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

| [In millions] | |
|---|--|
| Category | Transfers |
| Annualized Monetized Transfers. From Whom To Whom? | \$17. Federal Government To Postsecondary Students. |

Waiver of Delayed Effective Date and Congressional Review Act

The Administrative Procedure Act requires that a substantive rule be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). The Secretary has determined that a delayed effective date for these final regulations is unnecessary and contrary to the public interest, and that good cause exists to waive the requirement for a delayed effective date. Pursuant to section 4200 of the HEA, Congress directed the Secretary to make TEACH Grants available as of July 1, 2008. To fulfill the intent of Congress that TEACH Grants be available to eligible students beginning on July 1, 2008, the Secretary makes these regulations effective as of the date of publication to enable TEACH Grant-eligible institutions to prepare and forward student financial aid packages as early as possible following the availability of funds for this program. We note that delaying the effective date of the regulations also would prevent a significant number of otherwise eligible students enrolled during the 2008 summer term from being able to receive a TEACH Grant.

These regulations have been determined to be major for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801, *et seq.*). However, for the reasons outlined in the preceding paragraph, the Department has determined that, pursuant to section 808(2) of the CRA, the delay in the effective date generally required for congressional review is contrary to the public interest and waived for good cause.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations will not have a significant economic impact on a substantial number of small entities. These final regulations will affect institutions of higher education and individual students and loan borrowers. The U.S. Small Business Administration Size Standards define institutions as “small entities” if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. Individuals are also not defined as “small entities” under the Regulatory Flexibility Act.

As noted in the NPRM, a significant percentage of the schools participating in the Federal student loan programs meet the definition of “small entities.” In general, the Department believes benefits under these final regulations outweigh the relatively small additional burdens, particularly given that institutions finding the program's requirements onerous have the option of not participating. This belief is strongly supported by the fact that the negotiated rulemaking committee reached consensus on the proposed regulations.

In the NPRM, the Secretary invited comments from small institutions as to whether they believe the proposed regulations would have a significant economic impact on them and, if so, requested evidence to support that belief. No comments or data were received.

Paperwork Reduction Act of 1995

Sections 668.165, 686.4, 686.10, 686.11, 686.12, 686.20, 686.31, 686.32, 686.34, 686.36, 686.37, 686.38, 686.40, 686.41, 686.42 and 686.43 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to OMB for its review.

Section 668.165—Notices and Authorizations

The final regulations modify the Student Assistance General Provisions by including the Teacher Education Assistance for College and Higher Education (TEACH) Grant program in subpart K of the Student Assistance General Provisions regulations in 34 CFR part 668 (Cash management). Before an institution disburses Title IV, HEA program funds for any award year, the institution must notify a student of the amounts of funds that the student can expect to receive and how and

when those funds will be disbursed. The institution is required to notify, in writing, the recipient of a TEACH Grant of the student's right to cancel or reduce the amount of the TEACH Grant disbursement, as well as the procedures by which the student must notify the institution. We estimate that the requirements in § 686.165 will increase burden for institutions and individuals by 14,090 hours annually in OMB Control Number 1845-0038.

Section 686.4—Institutional Participation

The final regulations require an institution that ceases to participate in the TEACH Grant program or becomes ineligible to participate during an award year, to report to the Department within 45 days after the effective date of the loss of eligibility. The contents of the report must include the name of each TEACH Grant-eligible student; the amount of the TEACH Grant funds paid to each student for that award year; and the amount of TEACH Grant funds due each eligible student through the end of the payment period. Also, the institution must provide an accounting of all TEACH Grant expenditures for that award year to the date of termination. We estimate that the requirements in § 686.4 will increase burden for institutions by 81 hours in OMB Control Number 1845-XXXX.

Section 686.10—Application

Under the final regulations, a potential TEACH grant recipient must complete and submit an approved and signed application form, as designated by the Secretary prior to the published deadline. Currently, the FAFSA is the designated application form. All undergraduate and most graduate student applicants for Title IV, HEA program assistance must complete and submit the FAFSA. Because the TEACH Grant Program is not a need-based program, some applicants will be required to complete a FAFSA that otherwise may not have been required to complete a FAFSA, thereby generating additional burden. The estimated burden associated with these application requirements is contained in OMB Control Number 1845-0001. We estimate that the burden will increase for individuals by 1,000 hours.

Section 686.11—Eligibility To Receive a Grant

The final regulations establish that in addition to meeting the student eligibility requirements, in order to receive a TEACH Grant the applicant must submit the designated application, sign a TEACH Grant ATS, and enroll in

a TEACH Grant-eligible institution. Grant recipients must maintain a GPA of 3.25 on a 4.0 scale during each payment period, score above the 75th percentile on at least one of a battery of nationally-normed standardized tests, or qualify as a current or retired teacher obtaining a master's degree in a TEACH Grant-eligible program. There are several categories of grant recipients who must maintain the cumulative GPA of 3.25 each payment period.

Those categories are:

I. During the initial payment period:

The final cumulative high school GPA for a first term undergraduate recipient—

The TEACH Grant-eligible institution must document the student's secondary school GPA from an LEA, an SEA or other State agency; a public or private high school; or in the case of a home schooled student, obtain documentation of the secondary school GPA from the parent or guardian.

The undergraduate cumulative GPA for either the post-baccalaureate or graduate student recipient—

The TEACH Grant-eligible institution must document the student's undergraduate school cumulative GPA.

The transfer student cumulative GPA as determined by the current TEACH Grant-eligible institution—

The TEACH Grant-eligible institution must document the student's cumulative GPA based upon the method established by the institution to accept coursework completed from any prior postsecondary institution that it accepts.

II. Subsequent payment periods:

The cumulative GPA based on courses taken at the TEACH Grant-eligible institution through the most recently completed payment period, or

III. Alternatives to the cumulative GPA:

Scoring above the 75th percentile of at least one of the battery of tests from a nationally-normed standardized test, or

The TEACH grant recipient is currently a teacher or retiree who is applying for a TEACH Grant to obtain a master's degree in a TEACH Grant-eligible program. We estimate that the paperwork burden associated with § 686.11 will increase for individuals and institutions by 82,675 hours in OMB Control Number 1845-XXXX.

Section 686.12—Agreement To Serve

Under the final regulations, a student must sign an ATS before receiving a TEACH Grant. The ATS provides that a student must fulfill a service obligation for each program for which the student received a TEACH Grant. The ATS explains the terms of the service obligation and provides that if a TEACH

Grant recipient does not fulfill the service obligation or otherwise does not meet the requirements of 34 CFR part 686, any TEACH Grant the student received will convert to a Federal Direct Unsubsidized Loan that the student must repay in full to the Secretary, with interest.

The burden associated with the ATS will be reported under OMB Control Number 1845-0083. OMB granted emergency approval of the ATS on May 15, 2008. The ATS will be submitted for public comment under the regular clearance process.

Section 686.20—Submission Process and Deadline for a SAR or ISIR

The final regulations require that participating institutions who disburse TEACH Grant funds to students must electronically transmit data as required by the Secretary. The burden associated with the collection and transmission of the required data is assessed and attributed in 34 CFR 686.37. Therefore, there is no burden associated with this section of the final regulations.

Section 686.31—Determination of Eligibility for Payment and Cancellation of a TEACH Grant

Section 686.31 of the final regulations added notification requirements for an institution awarding TEACH Grants that are consistent with the changes made in 34 CFR 686.165—(Notices and authorizations). The estimated burden associated with these notification requirements is contained in OMB Control Number 1845-0038, as reported under the *Section 686.165—Notices and authorizations* heading. As a result, there is no additional burden associated with § 686.31.

Section 686.32—Counseling requirements

The final regulations require an institution to ensure that initial, subsequent, and exit counseling are provided to each TEACH Grant recipient. The initial counseling is required prior to making the first disbursement of the grant. Initial counseling must include, but is not limited to, explaining the terms and conditions of the TEACH Grant ATS; providing information on how to identify low-income schools and documented high need fields; informing grant recipients of the possibility of a suspension of the eight-year period for completion of the service obligation; and the conditions under which a suspension may be granted. Subsequent counseling, which must occur prior to the first disbursement of a TEACH Grant in a subsequent award year, must

include, but is not limited to reviewing the terms and conditions of the ATS; and emphasizing that if the student fails or refuses to complete the service obligation, the TEACH Grant will convert into a Federal Direct Unsubsidized Loan. Under the final regulations, institutions must ensure that exit counseling is provided to each TEACH Grant recipient before the recipient ceases to attend the institution. Written exit counseling materials may be provided within 30 days after completing a study abroad program or after a student withdraws without notifying the institution. We estimate that the paperwork burden associated with § 686.32 will increase for individuals and institutions by 50,828 hours in OMB Control Number 1845-XXXX.

Section 686.34—Liability for and Recovery of TEACH Grant Overpayments

The final regulations require the institution to promptly provide written notification to a student requesting repayment of any overpayment that the institution does not have responsibility to repay. These final regulations also require that the institution refer the student to the Department if the student does not take positive action to promptly resolve the TEACH Grant overpayment. We estimate that § 686.34 will increase burden for individuals and institutions by 855 hours in OMB Control Number 1845-XXXX.

Section 686.36—Fiscal Control and Accounting Procedures

The final regulations provide that participating institutions must account for the receipt and expenditure of Title IV, HEA program funds in accordance with generally accepted accounting principles. Further, participating institutions must disburse TEACH Grant funds consistent with the cash management regulations in 34 CFR 668.164. Participating institutions must comply with these requirements for the other Title IV, HEA programs and, therefore, there is no additional burden placed upon institutions participating in the TEACH Grant program.

Section 686.37—Institutional Reporting Requirements

Under the final regulations, a participating institution must provide the Secretary information about each TEACH Grant recipient that includes, but is not limited to: The student's eligibility for a TEACH Grant, the amounts of the TEACH Grant disbursed,

the anticipated and actual disbursement dates, and the disbursement amounts of the TEACH Grants provided. The initial disbursement information must be submitted to the Department no later than 30 days following the initial disbursement of TEACH Grant funds. Subsequent disbursements, cancellations, and adjustments must be submitted to the Department within 30 days of the transaction. Participating institutions must comply with these requirements for other Title IV, HEA programs and, therefore, there is no additional burden placed upon institutions participating in the TEACH Grant program.

Section 686.38—Maintenance and Retention of Records

The final regulations require participating institutions to maintain the fiscal records for the TEACH Grant program for three years after the end of the award year for which the TEACH Grant was awarded. Participating institutions must comply with these requirements for the other Title IV, HEA programs and, therefore, there is no additional burden placed upon institutions participating in the TEACH Grant program.

Section 686.40—Documenting the Service Obligation

Except as provided in §§ 686.40 and 686.42, the final regulations require a student to confirm to the Secretary in writing, within 120 days of completing or otherwise ceasing enrollment in a program for which the student received a TEACH Grant, that he or she is employed as a full-time teacher in accordance with the TEACH Grant ATS, or is not yet employed, but intends to meet the terms and conditions of the ATS.

The burden associated with this notification requirement will be covered under a new collection. A separate 60-day information collection notice will be published in the **Federal Register** to solicit comment on a notification form once it is developed.

Section 686.41—Periods of Suspension

The final regulations provide that a TEACH Grant recipient may request a suspension of the 8-year period for completion of the TEACH Grant service obligation based on one of the conditions described in § 686.41. The grant recipient must apply for a suspension on a form approved by the Secretary.

The burden associated with this notification requirement will be covered

under a new collection. A separate 60-day information collection notice will be published in the **Federal Register** to solicit comment on a suspension request form once it is developed.

Section 686.42—Discharge of Agreement To Serve

Under the final regulations, a TEACH Grant recipient's service obligation will be discharged if the recipient dies, or if the recipient becomes totally and permanently disabled and meets the eligibility requirements for a total and permanent disability discharge in 34 CFR 685.213.

The burden associated with the discharge of a TEACH Grant service obligation based on the grant recipient's death is covered under OMB Control Number 1845-0021 as the TEACH Grant will be recognized as an Federal Direct Unsubsidized Loan for the purposes of the loan discharge for death, consistent with § 685.212. We estimate that the burden will increase for individuals and loan holders by 23 hours in OMB Control Number 1845-0021.

The burden associated with the discharge of a TEACH Grant service obligation based on the grant recipient's total and permanent disability is covered under OMB Control Number 1845-0065.

Section 686.43—Obligation To Repay the Grant

The final regulations specify the conditions under which a TEACH Grant will be converted to a Federal Direct Unsubsidized Loan that the grant recipient must repay. One of these conditions is when a TEACH Grant recipient who has completed a program for which he or she received a TEACH Grant does not notify the Secretary at least annually of his or her intent to satisfy the TEACH Grant service obligation.

The burden associated with this notification requirement will be covered under the same new collection associated with the notification requirement in § 686.40.

Consistent with the discussion in this *Paperwork Reduction Act of 1995* section, the following chart describes the sections of the final regulations involving information collections, the information being collected, and the collections the Department will submit to OMB for approval and public comment under the Paperwork Reduction Act of 1995.

| Regulatory section | Information collection | Collection |
|--------------------|--|--|
| 668.165 | Before an institution disburses Title IV, HEA program funds for any award year, the institution must notify a student of the amounts of funds that the student can expect to receive and how and when those funds will be disbursed. The institution is required to notify in writing, the recipient of a TEACH Grant of the student's right to cancel or reduce the amount of the TEACH Grant disbursement, as well as the procedures by which the student must notify the institution. | OMB 1845-0038. This will be a revision of an existing collection which was submitted to OMB with these final regulations. |
| 686.4 | Institutions that cease participation in the TEACH Grant program or otherwise lose eligibility are required to report program data to the Department within 45 days of the change in eligibility. | OMB 1845-XXXX. This will be a new collection. |
| 686.11 | A TEACH Grant recipient must (a) score above the 75th percentile on a standardized nationally-normed test, (b) maintain a 3.25 cumulative GPA, or (c) currently be a teacher or retiree obtaining a master's degree in an eligible TEACH Grant program. | OMB 1845-XXXX. This will be a new collection. |
| 686.12 | Before receiving a TEACH Grant, a student must sign an ATS. The ATS provides that student must fulfill a service obligation for each program for which the student received a TEACH Grant. The ATS explains the terms of the service obligation and provides that if a TEACH Grant recipient does not fulfill the service obligation or otherwise does not meet the requirements of 34 CFR part 686, any TEACH Grant the student received will be converted to a Federal Direct Unsubsidized Loan that the student must repay in full to the Secretary, with interest. | OMB 1845-0083. OMB granted emergency approval of the ATS on May 15, 2008. The ATS will be submitted for public comment under the regular clearance process in the near future. |
| 686.31 | An institution participating in the TEACH Grant program must, before disbursing Title IV, HEA program funds, notify the recipient in accordance with 34 CFR 668.165. | The estimated burden associated with this section of the final regulations is recognized in OMB 1845-0038 Cash Management. |
| 686.32 | A participating institution must ensure that initial, subsequent, and exit counseling are provided for all TEACH Grant recipients. | OMB 1845-XXXX. This will be a new collection. |
| 686.34 | A participating institution must provide written notice to any TEACH Grant recipient when he or she owes a TEACH Grant overpayment. Moreover, if the recipient does not take positive action to resolve the overpayment within the deadline, the institution must report the overpayment to the Department. | OMB 1845-XXXX. This will be a new collection. |
| 686.40 | Except as provided in §§ 686.40 and 686.42, within 120-days of completing or otherwise ceasing enrollment in a program for which the student received a TEACH Grant, the student must confirm to the Secretary in writing that he or she is employed as a full-time teacher in accordance with the TEACH Grant ATS, or is not yet employed, but intends to meet the terms and conditions of the ATS. | OMB 1845-XXXX. This will be a new collection. A separate 60-day information collection notice will be published in the Federal Register to solicit comment on this form. The form will be put into the paperwork clearance process by October 2008. |
| 686.41 | A TEACH Grant recipient may request a suspension of the 8-year period for completion of the TEACH Grant service obligation based on one of the conditions described in § 686.41. The grant recipient must apply for a suspension on a form approved by the Secretary. | OMB 1845-XXXX. This will be a new collection. A separate 60-day information collection notice will be published in the Federal Register to solicit comment on this form. The form will be put into the paperwork clearance process by October 2008. |
| 686.42 | A TEACH Grant recipient's service obligation will be discharged if the recipient dies, or if the recipient becomes totally and permanently disabled and meets the eligibility requirements for a total and permanent disability discharge in 34 CFR 685.213. | Discharge of a TEACH Grant service obligation based on the grant recipient's death is covered under OMB 1845-0021. Discharge of a TEACH Grant service obligation based on the grant recipient's total and permanent disability is covered under OMB 1845-0065. |
| 686.43 | One of the conditions under which a TEACH Grant will be converted to a Federal Direct Unsubsidized Loan is if a grant recipient who has completed a program for which he or she received a TEACH Grant does not notify the Secretary at least annually of his or her intent to satisfy the TEACH Grant service obligation. | This will be covered by the same new collection as described for § 686.40. |

Assessment of Educational Impact

In the NPRM, and in accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e-4, we requested comments on whether the proposed regulations would require

transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the responses to the NPRM and on our review, we have determined that these final regulations do not

require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.033 Federal Work Study; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 Leveraging Education Assistance Partnerships; 84.268 William D. Ford Federal Direct Loan Program; 84.379 TEACH Grant program)

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 673, 675, and 676

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Employment, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 674, 682, and 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 686

Administrative practice and procedure, Colleges and universities, Education, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 690

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: June 11, 2008.

Margaret Spellings, Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends 34 CFR chapter VI as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 is revised to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.1 is amended by:

A. In paragraph (c)(10), removing the word “and” that appears after the punctuation “;”.

B. In paragraph (c)(11), removing the punctuation “.” at the end of the paragraph and adding, in its place, the words “; and”.

C. Adding a new paragraph (c)(12) to read as follows:

§ 668.1 Scope.

* * * * *

(c) * * *

(12) The Teacher Education Assistance for College and Higher Education (TEACH) Grant program.

* * * * *

3. Section 668.2 is amended by:

A. In paragraph (b), adding, in alphabetical order, the definitions of “Teacher Education Assistance for College and Higher Education (TEACH) Grant program” and “TEACH Grant”.

B. In paragraph (b), amending paragraph (2) of the definition of “Undergraduate student” by:

i. Removing the word “and” following “(ACG) Program”.

ii. Adding “, and TEACH Grant program” after “(SMART) Grant Program”.

iii. Adding “and 686.3(a)” after “690.6(c)(5)”.

C. In paragraph (b), revising the authority citation for the definition of undergraduate student.

The additions and revision read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program: A grant program authorized by title IV of the HEA under which grants are awarded by an

institution to students who are completing, or intend to complete, coursework to begin a career in teaching and who agree to serve for not less than four years as a full-time, highly-qualified teacher in a high-need field in a low-income school. If the recipient of a TEACH Grant does not complete four years of qualified teaching service within eight years of completing the course of study for which the TEACH Grant was received or otherwise fails to meet the requirements of 34 CFR 686.12, the amount of the TEACH Grant converts into a Federal Direct Unsubsidized Loan.

(Authority: 20 U.S.C. 1070g)

TEACH Grant: A grant authorized under title IV-A-9 of the HEA and awarded to students in exchange for prospective teaching service.

(Authority: 20 U.S.C. 1070g)

* * * * *

Undergraduate student:

* * * * *

(Authority: 20 U.S.C. 1070g)

* * * * *

§ 668.4 [Amended]

4. Section 668.4(b)(1) is amended by removing the word “and” that appears after “FSEOG,” and adding “, and TEACH Grant” after “Perkins Loan”.

5. Section 668.8 is amended by:

A. In the heading of paragraph (h), adding “TEACH Grant,” after “National SMART Grant,”.

B. In paragraph (h)(1), removing the word “and” that appears after the punctuation “;”.

C. In paragraph (h)(2), removing the punctuation “.” at the end of the paragraph and adding, in its place, the words “; and”.

D. Adding a new paragraph (h)(3).

E. Revising the authority citation.

The addition and revision read as follows:

§ 668.8 Eligible programs.

* * * * *

(h) * * *

(3) An educational program qualifies as an eligible program for purposes of the TEACH Grant program if it satisfies the requirements of the definition of TEACH Grant-eligible program in 34 CFR 686.2(d).

* * * * *

(Authority: 20 U.S.C. 1070a, 1070a-1, 1070b, 1070c-1, 1070c-2, 1070g, 1085, 1087aa-1087hh, 1088, 1091; 42 U.S.C. 2753)

§ 668.14 [Amended]

6. Section 668.14(f) is amended by:

A. In paragraph (f)(1), removing the words “paragraphs (h) and (i)” and

adding, in their place, the words “paragraphs (g) and (h)”.

■ B. In paragraph (f)(3), removing the words “paragraph (g)” and adding, in their place, the words “paragraph (f)”.

■ 7. Section 668.19 is amended by:

■ A. In paragraph (a)(3), removing the word “or” the first two times this word appears after the acronym “ACG,” and in each instance, adding the words “, or a TEACH Grant” after “National SMART Grant”.

■ B. In paragraph (a)(3), removing the word “or” the third time this word appears after the acronym “ACG,” and adding the words “, or TEACH Grant” after the third appearance of “National SMART Grant”.

■ C. Revising the authority citation to read as follows:

§ 668.19 Financial aid history.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091, 1094)

■ 8. Section 668.21 is amended by:

■ A. In paragraph (a)(1), adding the words “TEACH Grant,” immediately after the word “FSEOG,”.

■ B. Revising the authority citation to read as follows:

§ 668.21 Treatment of title IV grant and loan funds if the recipient does not begin attendance at the institution.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094)

■ 9. Section 668.22 is amended by:

■ A. In paragraph (a)(2), adding the words “TEACH Grant,” immediately after the words “National SMART Grant,”.

■ B. In paragraph (i)(2), adding a new paragraph (i)(2)(v).

■ C. Revising the authority citation.

The addition and revision read as follows:

§ 668.22 Treatment of title IV funds when a student withdraws.

* * * * *

(i) * * *

(2) * * *

(v) TEACH Grants.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091b)

■ 10. Section 668.24 is amended by:

■ A. In the introductory text of paragraph (e)(1), removing the word “or” which appears after “ACG”.

■ B. In the introductory text of paragraph (e)(1), adding the words “, or TEACH Grant” immediately in front of the word “Program”.

■ C. Revising the authority citation to read as follows:

§ 668.24 Record retention and examinations.

* * * * *

(Authority: 20 U.S.C. 1070a, 1070a–1, 1070b, 1070g, 1078, 1078–1, 1078–2, 1078–3, 1082, 1087, 1087a, *et seq.*, 1087cc, 1087hh, 1088, 1094, 1099c, 1141, 1232f; 42 U.S.C. 2753; section 4 of Pub. L. 95–452, 92 Stat. 1101–1109)

■ 11. Section 668.26 is amended by:

■ A. In paragraph (d)(1), removing the word “or” the first time it appears and adding the words “, or TEACH Grant” immediately after the words “National SMART Grant”.

■ B. In paragraph (e)(1), removing the word “and” the first time it appears and adding the words “, and TEACH Grant” immediately after the words “National SMART Grant”.

■ C. Revising the authority citation to read as follows:

§ 668.26 End of an institution’s participation in the title IV, HEA programs.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094, 1099a–3)

■ 12. Section 668.32 is amended by:

■ A. In paragraph (c)(2)(ii), removing the word “and”.

■ B. In paragraph (c)(3), adding the word “and” after the punctuation “;”.

■ C. Adding a new paragraph (c)(4).

■ D. Adding a new paragraph (k)(9).

■ E. Revising the authority citation.

The additions and revision read as follows:

§ 668.32 Student eligibility—general.

* * * * *

(c) * * *

(4) For the purposes of the TEACH Grant program—

(i) For an undergraduate student other than a student enrolled in a post-baccalaureate program, has not completed the requirements for a first baccalaureate degree; or

(ii) For the purposes of a student in a first post-baccalaureate program, has not completed the requirements for a post-baccalaureate program as described in 34 CFR 686.2(d);

* * * * *

(k) * * *

(9) 34 CFR 686.11 for the TEACH Grant program; and

* * * * *

(Authority: 20 U.S.C. 1070g, 1091; 28 U.S.C. 3201(e))

■ 13. Section 668.35 is amended by:

■ A. Redesignating paragraph (g)(4) as paragraph (g)(5).

■ B. Adding a new paragraph (g)(4).

■ C. Revising the authority citation.

The addition and revision read as follows:

§ 668.35 Student debts under the HEA and to the U.S.

* * * * *

(g) * * *

(4) A student is not liable for a TEACH Grant overpayment received in an award year if—

(i) The institution can eliminate that overpayment by adjusting subsequent title IV, HEA program (other than Federal Pell Grant, ACG, National SMART Grant, or TEACH Grant) payments in that same award year; or

(ii) The institution cannot eliminate the overpayment under paragraph (g)(4)(i) of this section but can eliminate that overpayment by adjusting subsequent TEACH Grant payments in that same award year.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091; 11 U.S.C. 523, 525)

■ 14. Section 668.138 is amended by:

■ A. In paragraph (a), removing the word “or” the first time it appears.

■ B. In paragraph (a), adding the words “, or TEACH Grant” immediately after the words “National SMART Grant”.

■ C. Revising the authority citation to read as follows:

§ 668.138 Liability.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091, 1094)

■ 15. Section 668.139 is amended by:

■ A. In paragraph (c), adding the words “TEACH Grant,” immediately after the words “National SMART Grant,”.

■ B. Revising the authority citation to read as follows:

§ 668.139 Recovery of payments and loan disbursements to ineligible students.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091, 1094)

■ 16. Section 668.161 is amended by:

■ A. In paragraph (a)(3)(i), adding the words “TEACH Grant,” immediately after the words “National SMART Grant,”.

■ B. Revising the authority citation to read as follows:

§ 668.161 Scope and purpose.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094)

■ 17. Section 668.162 is amended by:

■ A. In paragraph (d)(1), adding the words “TEACH Grant,” immediately after the words “National SMART Grant,”.

■ B. Revising the authority citation to read as follows:

§ 668.162 Requesting funds.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094)

- 18. Section 668.163 is amended by:
 - A. In paragraph (c)(2), adding the words “TEACH Grant,” immediately after the words “National SMART Grant.”
 - B. In the introductory text of paragraph (c)(3), adding the words “TEACH Grant,” immediately after the words “National SMART Grant.”
 - C. In paragraph (c)(4), adding the words “TEACH Grant,” immediately after the words “National SMART Grant.”
 - D. Revising the authority citation to read as follows:

§ 668.163 Maintaining and accounting for funds.

* * * * *

(Authority: 20 U.S.C. 1070g, 1091, 1094)

- 19. Section 668.164 is amended by:
 - A. In paragraph (g)(1)(ii), by removing the word “and” after “FSEOG,” and adding the words “, and TEACH Grant,” immediately after the words “Federal Perkins Loan.”
 - B. In paragraph (g)(2)(ii)(A), removing the word “or” that appears after the punctuation “;”.
 - C. In paragraph (g)(2)(ii)(B), removing the “.” after the words “to the student” and adding in its place “; or”.
 - D. Adding a new paragraph (g)(2)(ii)(C).
 - E. Revising the authority citation. The addition and revision read as follows:

§ 668.164 Disbursing funds.

* * * * *

- (g) * * *
- (2) * * *
- (ii) * * *

(C) For an award under the TEACH Grant program, the institution originates the award to the student.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094)

§ 668.165 [Amended]

- 20. Section 668.165 is amended by:
 - A. In the introductory text of paragraph (a)(2), removing the word “or” the first time it appears and adding the words “, or TEACH Grant” after “Federal Perkins Loan”.
 - B. In paragraph (a)(2)(ii), removing the word “or” the third time it appears and adding the punctuation “,” in its place, adding the words “, TEACH Grant, or TEACH Grant disbursement” immediately after the words “loan disbursement”, and adding the words “, or the TEACH Grant proceeds returned to the Secretary” after the words “and have the loan proceeds returned to the holder of that loan”.

- C. In paragraph (a)(2)(iii), removing the word “or” before the words “loan disbursement” and adding, in its place the punctuation “;” and by adding the words “, TEACH Grant, or TEACH Grant disbursement” immediately after the words “loan disbursement”.

- D. In paragraph (a)(4)(i) removing the word “or” before the words “loan disbursement” and adding, in its place the punctuation “;” and adding the words “, TEACH Grant, or TEACH Grant disbursement” after the words “loan disbursement”.

- E. In the introductory text of paragraph (a)(4)(ii), adding the words “or TEACH Grant” before the word “proceeds”, after the words “cancel the loan”, and before the words “cancellation request”.

- F. In paragraph (a)(4)(ii)(A), adding the words “or TEACH Grant” after the words “or a portion of a loan”.

- G. In paragraph (a)(4)(iii), adding the words “or TEACH Grant” before the word “proceeds” and after the words “cancel the loan”.

- H. In paragraph (a)(6)(i), adding the words “, The process under which the TEACH Grant program is administered is considered to be an affirmative confirmation process” after the words “loan funds”.

- I. In paragraph (a)(6)(ii), adding the words “or TEACH Grant” before the word “proceeds”.

- 21. Section 668.183 is amended by:

- A. In paragraph (b)(1), removing the word “Your” the first time it appears and adding, in its place, the words “Except as provided in paragraph (b)(3) of this section, your” at the beginning of the first sentence.

- B. Adding a new paragraph (b)(3).

- C. Revising the authority citation.

The addition and revision read as follows:

§ 668.183 Calculating and applying cohort default rates.

* * * * *

- (b) * * *

(3) A TEACH Grant that has been converted to a Federal Direct Unsubsidized Loan is not considered for the purpose of calculating and applying cohort default rates.

* * * * *

(Authority: 20 U.S.C. 1070g, 1082, 1085, 1094, 1099c)

PART 673—GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

- 22. The authority citation for part 673 is revised to read as follows:

Authority: 20 U.S.C. 421–429, 1070b–1070b–3, 1070g, 1087aa–1087ii; 42 U.S.C. 2751–2756b, unless otherwise noted.

- 23. Section 673.5 is amended by:
 - A. In paragraph (c)(2)(iii), adding the words “TEACH Grants,” immediately after the words “the amounts of any” and by removing the word “loan” which appears after the words “if the sum of the”.

- B. Revising the authority citation to read as follows:

§ 673.5 Overaward.

* * * * *

(Authority: 20 U.S.C. 1070b–1, 1070g, 1087dd, 1087hh; 42 U.S.C. 2753)

PART 674—FEDERAL PERKINS LOAN PROGRAM

- 24. The authority citation for part 674 is revised to read as follows:

Authority: 20 U.S.C. 421–429, 1070g, 1087aa–1087hh, unless otherwise noted.

- 25. Section 674.2 is amended by:

- A. In paragraph (a), adding, in alphabetical order, the terms “Teacher Education Assistance for College and Higher Education (TEACH) Grant Program” and “TEACH Grant”.

- B. Revising the authority citation to read as follows:

§ 674.2 Definitions.

* * * * *

(Authority: 20 U.S.C. 1070g, 1094)

- 26. Section 674.61 is amended by:

- A. In paragraph (b)(2)(ii), adding the words “a new TEACH Grant or” immediately after the words “does not receive”.

- B. Revising the authority citation to read as follows:

§ 674.61 Discharge for death or disability.

* * * * *

(Authority: 20 U.S.C. 425, 1070g, 1087dd; sec. 130(g)(2) of the Education Amendments of 1976, Pub. L. 94–482)

PART 675—FEDERAL WORK-STUDY PROGRAMS

- 27. The authority citation for part 675 is revised to read as follows:

Authority: 20 U.S.C. 1070g; 42 U.S.C. 2751–2756b; unless otherwise noted.

■ 28. Section 675.2 is amended by:

■ A. In paragraph (a), adding, in alphabetical order, the terms “Teacher Education Assistance for College and Higher Education (TEACH) Grant Program” and “TEACH Grant”.

■ B. Revising the authority citation to read as follows:

§ 675.2 Definitions.

* * * * *

(Authority: 20 U.S.C. 1070g, 1087aa–1087ii)

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

■ 29. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, 1070g, unless otherwise noted.

■ 30. Section 676.2 is amended by:

■ A. In paragraph (a), adding, in alphabetical order, the terms “Teacher Education Assistance for College and Higher Education (TEACH) Grant Program” and “TEACH Grant”.

■ B. Revising the authority citation to read as follows:

§ 676.2 Definitions.

* * * * *

(Authority: 20 U.S.C. 1070g, 1087aa–1087ii)

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 31. The authority citation for part 682 is revised to read as follows:

Authority: 20 U.S.C 1070g, 1071 to 1087–2, unless otherwise noted.

■ 32. Section 682.200 is amended by:

■ A. In paragraph (a)(1), adding, in alphabetical order, the terms “Teacher Education Assistance for College and Higher Education (TEACH) Grant Program” and “TEACH Grant”.

■ B. In paragraph (b), in paragraph (2) of the definition of “Estimated financial assistance,” adding the words “TEACH Grant,” after the words “the amounts of any” and removing the word “loan” immediately following the words “if the sum of the”.

■ 33. Section 682.204 is amended by:

■ A. In paragraph (c), adding before the “.” the following words “, except that any TEACH Grants that have been converted to Federal Direct Unsubsidized Loans are not counted against annual or any aggregate loan limits under this section.”

■ B. Adding an authority citation to read as follows:

§ 682.204 Maximum loan amounts.

* * * * *

(Authority: 20 U.S.C. 1070g, 1078, 1078–2, 1078–3, 1078–8)

§ 682.215 [Amended]

■ 34. Section 682.215(c)(7)(ii) is amended by removing the citation “(19 U.S.C. 2654)” and adding in its place, the citation “(29 U.S.C. 2601, *et seq.*)”.

■ 35. Section 682.402 is amended by:

■ A. In paragraph (c)(1)(ii)(B), adding the words “a new TEACH Grant or” immediately after the words “does not receive”.

■ B. Revising the authority citation to read as follows:

§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

* * * * *

(Authority: 20 U.S.C. 1070g, 1078, 1078–1, 1078–2, 1078–3, 1082, 1087)

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 36. The authority citation for part 685 is revised to read as follows:

Authority: 20 U.S.C 1070g, 1087a, *et seq.*, unless otherwise noted.

■ 37. Section 685.102 is amended by:

■ A. In paragraph (a)(1), adding, in alphabetical order, the terms “Teacher Education Assistance for College and Higher Education (TEACH) Grant Program” and “TEACH Grant”.

■ B. In paragraph (b), in paragraph (2)(i) of the definition of “Estimated financial assistance,” adding the words “TEACH Grant,” after the words “the amounts of any” and removing the word “loan” immediately following the words “if the sum of the”.

■ C. Revising the authority citation to read as follows:

§ 685.102 Definitions.

* * * * *

(Authority: 20 U.S.C. 1070g, 1087a, *et seq.*)

■ 38. Section 685.203 is amended by:

■ A. In paragraph (b), adding before the “.” the words “, except that any TEACH Grants that have been converted to Federal Direct Unsubsidized Loans are not counted against annual or any aggregate loan limits under this section”.

■ B. Revising the authority citation to read as follows:

§ 685.203 Loan limits.

* * * * *

(Authority: 20 U.S.C. 1070g, 1087a, *et seq.*)

■ 39. Section 685.213 is amended by:

■ A. In paragraph (c)(2), adding the words “a new TEACH Grant or”

immediately after the words “does not receive”.

■ B. Revising the authority citation to read as follows:

§ 685.213 Total and permanent disability discharge.

* * * * *

(Authority: 20 U.S.C. 1070g, 1087a, *et seq.*)

§ 685.217 [Amended]

■ 40. Section 685.217(c)(7)(ii) is amended by removing the citation “(19 U.S.C. 2654)” and adding, in its place, the citation “(29 U.S.C. 2601, *et seq.*)”.

■ 41. A new part 686 is added to read as follows:

Subpart A—Scope, Purpose and General Definitions

Sec.

686.1 Scope and purpose.

686.2 Definitions.

686.3 Duration of student eligibility.

686.4 Institutional participation.

686.5 Enrollment status for students taking regular and correspondence courses.

686.6 Payment from more than one institution.

Subpart B—Application Procedures

686.10 Application.

686.11 Eligibility to receive a grant.

686.12 Agreement to serve.

Subpart C—Determination of Awards

686.20 Submission process and deadline for a SAR or ISIR.

686.21 Calculation of a grant.

686.22 Calculation of a grant for a payment period.

686.23 Calculation of a grant for a payment period that occurs in two award years.

686.24 Transfer student: attendance at more than one institution during an award year.

686.25 Correspondence study.

Subpart D—Administration of Grant Payments

686.30 Scope.

686.31 Determination of eligibility for payment and cancellation of a TEACH Grant.

686.32 Counseling requirements.

686.33 Frequency of payment.

686.34 Liability for and recovery of TEACH Grant overpayments.

686.35 Recalculation of TEACH Grant award amounts.

686.36 Fiscal control and fund accounting procedures.

686.37 Institutional reporting requirements.

686.38 Maintenance and retention of records.

Subpart E—Service and Repayment Obligations

686.40 Documenting the service obligation.

686.41 Periods of suspension.

686.42 Discharge of agreement to serve.

686.43 Obligation to repay the grant.

Authority: 20 U.S.C. 1070g, *et seq.*, unless otherwise noted.

Subpart A—Scope, Purpose, and General Definitions

§ 686.1 Scope and purpose.

The TEACH Grant program awards grants to students who intend to teach, to help meet the cost of their postsecondary education. In exchange for the grant, the student must agree to serve as a full-time teacher in a high-need field, in a school serving low-income students for at least four academic years within eight years of completing the program of study for which the student received the grant. If the student does not satisfy the service obligation, the amounts of the TEACH Grants received are treated as a Federal Direct Unsubsidized Stafford Loan (Federal Direct Unsubsidized Loan) and must be repaid with interest.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.2 Definitions.

(a) Definitions for the following terms used in this part are in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, (HEA) 34 CFR part 600:

Award year
Clock hour
Correspondence course
Eligible institution
Institution of higher education (institution)
Regular student
Secretary
State
Title IV, HEA program

(b) Definitions for the following terms used in this part are in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Academic year
Enrolled
Expected family contribution (EFC)
Full-time student
Graduate or professional student
Half-time student
HEA
Payment period
Three-quarter-time student
Undergraduate student
William D. Ford Federal Direct Loan (Direct Loan) Program

(c) Definitions for the following terms used in this part are in 34 CFR part 77:

Local educational agency (LEA)
State educational agency (SEA)

(d) Other terms used in this part are defined as follows:

Academic year or its equivalent for elementary and secondary schools (elementary or secondary academic year):

(1) One complete school year, or two complete and consecutive half-years from different school years, excluding

summer sessions, that generally fall within a 12-month period.

(2) If a school has a year-round program of instruction, the Secretary considers a minimum of nine consecutive months to be the equivalent of an academic year.

Agreement to serve (ATS): An agreement under which the individual receiving a TEACH Grant commits to meet the service obligation described in § 686.12 and to comply with notification and other provisions of the agreement.

Annual award: The maximum TEACH Grant amount a student would receive for enrolling as a full-time, three-quarter-time, half-time, or less-than-half-time student and remaining in that enrollment status for a year.

Bilingual education: An educational program in which two languages are used to provide content matter instruction.

Elementary school: A nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

English language acquisition: The process of acquiring English as a second language.

Full-time teacher: A teacher who meets the standard used by a State in defining full-time employment as a teacher. For an individual teaching in more than one school, the determination of full-time is based on the combination of all qualifying employment.

High-need field: Includes the following:

- (1) Bilingual education and English language acquisition.
- (2) Foreign language.
- (3) Mathematics.
- (4) Reading specialist.
- (5) Science.
- (6) Special education.
- (7) Another field documented as high-need by the Federal Government, a State government or an LEA, and approved by the Secretary and listed in the Department's annual Teacher Shortage Area Nationwide Listing (Nationwide List) in accordance with 34 CFR 682.210(q).

Highly-qualified: Has the meaning set forth in section 9101(23) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) or in section 602(10) of the Individuals With Disabilities Education Act.

Institutional Student Information Record (ISIR): An electronic record that the Secretary transmits to an institution that includes an applicant's—

- (1) Personal identification information;
- (2) Application data used to calculate the applicant's EFC; and

(3) EFC.

Numeric equivalent: (1) If an otherwise eligible program measures academic performance using an alternative to standard numeric grading procedures, the institution must develop and apply an equivalency policy with a numeric scale for purposes of establishing TEACH Grant eligibility. The institution's equivalency policy must be in writing and available to students upon request and must include clear differentiations of student performance to support a determination that a student has performed at a level commensurate with at least a 3.25 GPA on a 4.0 scale in that program.

(2) A grading policy that includes only "satisfactory/unsatisfactory", "pass/fail", or other similar nonnumeric assessments qualifies as a numeric equivalent only if—

(i) The institution demonstrates that the "pass" or "satisfactory" standard has the numeric equivalent of at least a 3.25 GPA on a 4.0 scale awarded in that program, or that a student's performance for tests and assignments yielded a numeric equivalent of a 3.25 GPA on a 4.0 scale; and

(ii) For an eligible institution, the institution's equivalency policy is consistent with any other standards the institution may have developed for academic and other title IV, HEA program purposes, such as graduate school applications, scholarship eligibility, and insurance certifications, to the extent such standards distinguish among various levels of a student's academic performance.

Payment data: An electronic record that is provided to the Secretary by an institution showing student disbursement information.

Post-baccalaureate program: A program of instruction for individuals who have completed a baccalaureate degree, that—

(1) Does not lead to a graduate degree;

(2) Consists of courses required by a State in order for a student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that it does not include any program of instruction offered by a TEACH Grant-eligible institution that offers a baccalaureate degree in education; and

(3) Is treated as an undergraduate program of study for the purposes of title IV of the HEA.

Retiree: An individual who has decided to change his or her occupation for any reason and who has expertise, as determined by the institution, in a high-need field.

Scheduled Award: The maximum amount of a TEACH Grant that a full-time student could receive for a year.

School serving low-income students (low-income school): An elementary or secondary school that—

(1) Is in the school district of an LEA that is eligible for assistance pursuant to title I of the ESEA;

(2) Has been determined by the Secretary to be a school in which more than 30 percent of the school's total enrollment is made up of children who qualify for services provided under title I of the ESEA; and

(3) Is listed in the Department's Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits. The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) in the Department of the Interior or operated on Indian reservations by Indian tribal groups under contract or grant with the BIE to qualify as schools serving low-income students.

Secondary school: A nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

Student Aid Report (SAR): A report provided to an applicant by the Secretary showing the amount of his or her expected family contribution.

TEACH Grant-eligible institution: An eligible institution as defined in 34 CFR part 600 that meets financial responsibility standards established in 34 CFR part 668, subpart L, or that qualifies under an alternative standard in 34 CFR 668.175 and—

(1) Provides a high-quality teacher preparation program at the baccalaureate or master's degree level that—

(i)(A) Is accredited by a specialized accrediting agency recognized by the Secretary for the accreditation of professional teacher education programs; or

(B) Is approved by a State and includes a minimum of 10 weeks of full-time pre-service clinical experience, or its equivalent, and provides either pedagogical coursework or assistance in the provision of such coursework; and

(ii) Provides supervision and support services to teachers, or assists in the provision of services to teachers, such as—

(A) Identifying and making available information on effective teaching skills or strategies;

(B) Identifying and making available information on effective practices in the

supervision and coaching of novice teachers; and

(C) Mentoring focused on developing effective teaching skills and strategies;

(2) Provides a two-year program that—

(i) Is acceptable for full credit in a baccalaureate teacher preparation program of study offered by an institution described in paragraph (1) of this definition, as demonstrated by the institutions; or

(ii) Is acceptable for full credit in a baccalaureate degree program in a high-need field at an institution described in paragraph (3) of this definition, as demonstrated by the institutions;

(3) Offers a baccalaureate degree that, in combination with other training or experience, will prepare an individual to teach in a high-need field as defined in this part and has entered into an agreement with an institution described in paragraphs (1) or (4) of this definition to provide courses necessary for its students to begin a career in teaching; or

(4) Provides a post-baccalaureate program of study.

TEACH Grant-eligible program: An eligible program, as defined in 34 CFR 668.8, is a program of study that is designed to prepare an individual to teach as a highly-qualified teacher in a high-need field and leads to a baccalaureate or master's degree, or is a post-baccalaureate program of study. A two-year program of study that is acceptable for full credit toward a baccalaureate degree is considered to be a program of study that leads to a baccalaureate degree.

Teacher: A person who provides direct classroom teaching or classroom-type teaching in a non-classroom setting, including special education teachers and reading specialists.

Teacher preparation program: A State-approved course of study, the completion of which signifies that an enrollee has met all the State's educational or training requirements for initial certification or licensure to teach in the State's elementary or secondary schools. A teacher preparation program may be a regular program or an alternative route to certification, as defined by the State. For purposes of a TEACH Grant, the program must be provided by an institution of higher education.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.3 Duration of student eligibility.

(a) An undergraduate or post-baccalaureate student enrolled in a TEACH Grant-eligible program may receive the equivalent of up to four Scheduled Awards during the period required for the completion of the first

undergraduate baccalaureate program of study and first post-baccalaureate program of study combined.

(b) A graduate student is eligible to receive the equivalent of up to two Scheduled Awards during the period required for the completion of a TEACH Grant-eligible master's degree program of study.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.4 Institutional participation.

(a) A TEACH Grant-eligible institution that offers one or more TEACH Grant-eligible programs may elect to participate in the TEACH Grant program.

(b) If an institution begins participation in the TEACH Grant program during an award year, a student enrolled at and attending that institution is eligible to receive a grant under this part for the payment period during which the institution begins participation and any subsequent payment period.

(c) If an institution ceases to participate in the TEACH Grant program or becomes ineligible to participate in the TEACH Grant program during an award year, a student who was attending the institution and who submitted a SAR with an official EFC to the institution, or for whom the institution obtained an ISIR with an official EFC, before the date the institution became ineligible will receive a TEACH Grant for that award year for—

(1) The payment periods that the student completed before the institution ceased participation or became ineligible to participate; and

(2) The payment period in which the institution ceased participation or became ineligible to participate.

(d) An institution that ceases to participate in the TEACH Grant program or becomes ineligible to participate in the TEACH Grant program must, within 45 days after the effective date of the loss of eligibility, provide to the Secretary—

(1) The name and other student identifiers as required by the Secretary of each eligible student under § 686.11 who, during the award year, submitted a SAR with an official EFC to the institution or for whom it obtained an ISIR with an official EFC before it ceased to participate in the TEACH Grant program or became ineligible to participate;

(2) The amount of funds paid to each student for that award year;

(3) The amount due each student eligible to receive a grant through the end of the payment period during which the institution ceased to participate in

the TEACH Grant program or became ineligible to participate; and

(4) An accounting of the TEACH Grant program expenditures for that award year to the date of termination.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.5 Enrollment status for students taking regular and correspondence courses.

(a) If, in addition to regular coursework, a student takes correspondence courses from either his or her own institution or another institution having an arrangement for this purpose with the student's institution, the correspondence work may be included in determining the student's enrollment status to the extent

permitted under paragraph (b) of this section.

(b) Except as noted in paragraph (c) of this section, the correspondence work that may be included in determining a student's enrollment status is that amount of work that—

(1) Applies toward a student's degree or post-baccalaureate program of study or is remedial work taken by the student to help in his or her TEACH Grant-eligible program;

(2) Is completed within the period of time required for regular coursework; and

(3) Does not exceed the amount of a student's regular coursework for the payment period for which enrollment status is being calculated.

(c)(1) Notwithstanding the limitation in paragraph (b)(3) of this section, a

student who would be a half-time student based solely on his or her correspondence work is considered a half-time student unless the calculation in paragraph (b) of this section produces an enrollment status greater than half-time.

(2) A student who would be a less-than-half-time student based solely on his or her correspondence work or a combination of correspondence work and regular coursework is considered a less-than-half-time student.

(d) The following chart provides examples of the application of the regulations set forth in this section. It assumes that the institution defines full-time enrollment as 12 credits per term, making half-time enrollment equal to six credits per term.

| Under § 686.5 | No. of credit hours regular work | No. of credit hours correspondence | Total course load in credit hours to determine enrollment status | Enrollment status |
|----------------------|----------------------------------|------------------------------------|--|----------------------|
| (b)(3) | 3 | 3 | 6 | Half-time. |
| (b)(3) | 3 | 6 | 6 | Half-time. |
| (b)(3) | 3 | 9 | 6 | Half-time. |
| (b)(3) | 6 | 3 | 9 | Three-quarter-time. |
| (b)(3) | 6 | 6 | 12 | Full-time. |
| (b)(3) and (c) | 2 | 6 | 6 | Half-time. |
| (c) * | | | | Less-than-half-time. |

* Any combination of regular and correspondence work that is greater than zero, but less than six hours.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.6 Payment from more than one institution.

A student may not receive grant payments under this part concurrently from more than one institution.

(Authority: 20 U.S.C. 1070g, *et seq.*)

Subpart B—Application Procedures

§ 686.10 Application.

(a) To receive a grant under this part, a student must—

(1) Complete and submit an approved signed application, as designated by the Secretary. A copy of this application is not acceptable;

(2) Complete and sign an agreement to serve and promise to repay; and

(3) Provide any additional information and assurances requested by the Secretary.

(b) The student must submit an application to the Secretary by—

(1) Sending the completed application to the Secretary; or

(2) Providing the application, signed by all appropriate family members, to the institution which the student attends or plans to attend so that the institution can transmit the application

information to the Secretary electronically.

(c) The student must provide the address of his or her residence.

(d) For each award year, the Secretary, through publication in the **Federal Register**, establishes deadline dates for submitting to the Department the application and additional information and for making corrections to the information provided.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.11 Eligibility to receive a grant.

(a) *Undergraduate, post-baccalaureate, and graduate students.*

(1) Except as provided in paragraph (b) of this section, a student who meets the requirements of 34 CFR part 668, subpart C, is eligible to receive a TEACH Grant if the student—

(i) Has submitted a completed application;

(ii) Has signed an agreement to serve as required under § 686.12;

(iii) Is enrolled in a TEACH Grant-eligible institution in a TEACH Grant-eligible program;

(iv) Is completing coursework and other requirements necessary to begin a career in teaching or plans to complete

such coursework and requirements prior to graduating; and

(v) Has—

(A) If the student is in the first year of a program of undergraduate education as determined by the institution—

(1) A final cumulative secondary school grade point average (GPA) upon graduation of at least 3.25 on a 4.0 scale, or the numeric equivalent; or

(2) A cumulative GPA of at least 3.25 on a 4.0 scale, or the numeric equivalent, based on courses taken at the institution through the most-recently completed payment period;

(B) If the student is beyond the first year of a program of undergraduate education as determined by the institution, a cumulative undergraduate GPA of at least 3.25 on a 4.0 scale, or the numeric equivalent, through the most recently completed payment period;

(C) If the student is a graduate student during the first payment period, a cumulative undergraduate GPA of at least 3.25 on a 4.0 scale, or the numeric equivalent;

(D) If the student is a graduate student beyond the first payment period, a

cumulative graduate GPA of at least 3.25 on a 4.0 scale, or the numeric equivalent, through the most-recently completed payment period; or

(E) A score above the 75th percentile of scores achieved by all students taking the test during the period the student took the test on at least one of the batteries from a nationally-normed standardized undergraduate, graduate, or post-baccalaureate admissions test, except that such test may not include a placement test.

(2)(i) An institution must document the student's secondary school GPA under § 686.11(a)(1)(v)(A) using—

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) A cognizant authority includes, but is not limited to—

(A) An LEA;

(B) An SEA or other State agency; or

(C) A public or private secondary school.

(iii) A home-schooled student's parent or guardian is the cognizant authority for purposes of providing the documentation of a home-schooled student's secondary school GPA.

(iv) If an institution has reason to believe the documentation provided by a student under paragraph (a)(2)(i)(B) of this section is inaccurate or incomplete, the institution must confirm the student's grades by using documentation provided directly to the institution by the cognizant authority.

(b) *Current or former teachers or retirees.* A student who has submitted a completed application and meets the requirements of 34 CFR part 668, subpart C, is eligible to receive a TEACH Grant if the student—

(1) Has signed an agreement to serve as required under § 686.12;

(2) Is a current teacher or retiree who is applying for a grant to obtain a master's degree or is or was a teacher who is pursuing certification through a high-quality alternative certification route; and

(3) Is enrolled in a TEACH Grant-eligible institution in a TEACH Grant-eligible program during the period required for the completion of a master's degree.

(c) *Transfer students.* If a student transfers from one institution to the current institution and does not qualify under § 686.11(a)(1)(v)(E), the current institution must determine that student's eligibility for a TEACH Grant for the first payment period using either the method described in paragraph (c)(1) of this section or the method described in paragraph (c)(2) of this

section, whichever method coincides with the current institution's academic policy. For an eligible student who transfers to an institution that—

(1) Does not incorporate grades from coursework that it accepts on transfer into the student's GPA at the current institution, the current institution, for the courses accepted upon transfer—

(i) Must calculate the student's GPA for the first payment period of enrollment using the grades earned by the student in the coursework from any prior postsecondary institution that it accepts; and

(ii) Must, for all subsequent payment periods, apply its academic policy and not incorporate the grades from the coursework that it accepts on transfer into the GPA at the current institution; or

(2) Incorporates grades from the coursework that it accepts on transfer into the student's GPA at the current institution, the current institution must use the grades assigned to the coursework accepted by the current institution as the student's cumulative GPA to determine eligibility for the first payment period of enrollment and all subsequent payment periods in accordance with its academic policy.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.12 Agreement to serve.

(a) *General.* A student who meets the eligibility requirements in § 686.11 may receive a TEACH Grant only after he or she signs an agreement to serve provided by the Secretary and receives counseling in accordance with § 686.32.

(b) *Contents of the agreement to serve.* The agreement provides that, for each TEACH Grant-eligible program for which the student received TEACH Grant funds, the grant recipient must fulfill a service obligation by performing creditable teaching service by—

(1) Serving as a full-time teacher for a total of not less than four elementary or secondary academic years within eight calendar years after completing the program or otherwise ceasing to be enrolled in the program for which the recipient received the TEACH Grant—

(i) In a low-income school;

(ii) As a highly-qualified teacher; and

(iii) In a high-need field in the majority of classes taught during each elementary and secondary academic year.

(2) Submitting, upon completion of each year of service, documentation of the service in the form of a certification by a chief administrative officer of the school; and

(3) Complying with the terms, conditions, and other requirements consistent with §§ 686.40–686.43 that

the Secretary determines to be necessary.

(c) *Completion of more than one service obligation.*

(1) A grant recipient must complete a service obligation for each program of study for which he or she received TEACH Grants. Each service obligation begins following the completion or other cessation of enrollment by the student in the TEACH Grant-eligible program for which the student received TEACH Grant funds. However, creditable teaching service may apply to more than one service obligation.

(2) A grant recipient may request a suspension, in accordance with § 686.41, of the eight-year time period in paragraph (b)(1) of this section.

(d) *Majoring and serving in a high-need field.* A grant recipient who completes a TEACH Grant-eligible program in a field that is listed in the Nationwide List cannot satisfy his or her service obligation to teach in that high-need field unless the high-need field in which he or she has prepared to teach is listed in the Nationwide List for the State in which the grant recipient begins teaching at the time the recipient begins teaching in that field.

(e) *Repayment for failure to complete service obligation.* If a grant recipient fails or refuses to carry out the required service obligation described in paragraph (b) of this section, the TEACH Grants received by the recipient must be repaid and will be treated as a Federal Direct Unsubsidized Loan, with interest accruing from the date of each TEACH Grant disbursement, in accordance with applicable sections of subpart B of 34 CFR part 685.

(Authority: 20 U.S.C. 1070g, *et seq.*)

Subpart C—Determination of Awards

§ 686.20 Submission process and deadline for a SAR or ISIR.

(a) *Submission process.* (1) Except as provided in paragraph (a)(2) of this section, an institution must disburse a TEACH Grant to a student who is eligible under § 686.11 and is otherwise qualified to receive that disbursement and electronically transmit disbursement data to the Secretary for that student if—

(i) The student submits a SAR with an official EFC to the institution; or

(ii) The institution obtains an ISIR with an official EFC for the student.

(2) In determining a student's eligibility to receive a grant under this part, an institution is entitled to assume that the SAR information or ISIR information is accurate and complete except under the conditions set forth in 34 CFR 668.16(f).

(b) *SAR or ISIR deadline.* Except as provided in 34 CFR 668.164(g), for a student to receive a grant under this part in an award year, the student must submit the relevant parts of the SAR with an official EFC to his or her institution or the institution must obtain an ISIR with an official EFC by the earlier of—

(1) The last date that the student is still enrolled and eligible for payment at that institution; or

(2) By the deadline date established by the Secretary through publication of a notice in the **Federal Register**.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.21 Calculation of a grant.

(a)(1)(i) The Scheduled Award for a TEACH Grant for an eligible student is \$4,000.

(ii) Each Scheduled Award remains available to an eligible student until the \$4,000 is disbursed.

(2)(i) The aggregate amount that a student may receive in TEACH Grants for undergraduate and post-baccalaureate study may not exceed \$16,000.

(ii) The aggregate amount that a student may receive in TEACH Grants for a master's degree may not exceed \$8,000.

(b) The annual award for—

(1) A full-time student is \$4,000;

(2) A three-quarter-time student is \$3,000;

(3) A half-time student is \$2,000; and

(4) A less-than-half-time student is \$1,000.

(c) Except as provided in paragraph (d) of this section, the amount of a student's grant under this part, in combination with the other student financial assistance available to the student, including the amount of a Federal Pell Grant for which the student is eligible, may not exceed the student's cost of attendance at the TEACH Grant-eligible institution. Other student financial assistance is estimated financial assistance, as defined in 34 CFR 673.5(c).

(d) A TEACH Grant may replace a student's EFC, but the amount of the grant that exceeds the student's EFC is considered estimated financial assistance, as defined in 34 CFR 673.5(c).

(e) In determining a student's payment for a payment period, an institution must include—

(1) In accordance with 34 CFR 668.20, any noncredit or reduced credit courses that an institution determines are necessary—

(i) To help a student be prepared for the pursuit of a first undergraduate

baccalaureate or post-baccalaureate degree or certificate; or

(ii) In the case of English language instruction, to enable the student to utilize already existing knowledge, training, or skills; and

(2) In accordance with 34 CFR 668.5, a student's participation in a program of study abroad if it is approved for credit by the home institution at which the student is enrolled.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.22 Calculation of a grant for a payment period.

(a) *Eligibility for payment formula—*
(1) *Programs using standard terms with at least 30 weeks of instructional time.*

A student's grant for a payment period is calculated under paragraph (b) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters; and
(C)(1) For an undergraduate student, requires the student to enroll for at least 12 credit hours in each term in the award year to qualify as a full-time student; or

(2) For a graduate student, each term in the award year meets the minimum full-time enrollment status established by the institution for a semester, trimester, or quarter; and

(ii) The program uses an academic calendar that provides at least 30 weeks of instructional time in—

(A) Two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring, none of which overlaps any other term (including a summer term) in the program; or

(B) Any two semesters or trimesters, or any three quarters where—

(1) The institution starts its terms for different cohorts of students on a periodic basis (*e.g.*, monthly);

(2) The program is offered exclusively in semesters, trimesters, or quarters; and

(3) Students are not allowed to be enrolled simultaneously in overlapping terms and must stay with the cohort in which they start unless they withdraw from a term (or skip a term) and reenroll in a subsequent term.

(2) *Programs using standard terms with less than 30 weeks of instructional time.* A student's payment for a payment period is calculated under paragraph (c) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters;

(C)(1) For an undergraduate student, requires the student to enroll in at least

12 credit hours in each term in the award year to qualify as a full-time student; or

(2) For a graduate student, each term in the award year meets the minimum full-time enrollment status established by the institution for a semester, trimester, or quarter; and

(D) Is not offered with overlapping terms; and

(ii) The institution offering the program—

(A) Provides the program using an academic calendar that includes two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring; and

(B) Does not provide at least 30 weeks of instructional time in the terms specified in paragraph (a)(2)(ii)(A) of this section.

(3) *Other programs using terms and credit hours.* A student's payment for a payment period is calculated under paragraph (d) of this section if the student is enrolled in an eligible program that—

(i) Measures progress in credit hours; and

(ii) Is offered in academic terms other than those described in paragraphs (a)(1) and (2) of this section.

(4) *Programs not using terms or using clock hours.* A student's payment for any payment period is calculated under paragraph (e) of this section if the student is enrolled in an eligible program that—

(i) Is offered in credit hours but is not offered in academic terms; or

(ii) Is offered in clock hours.

(5) *Programs for which an exception to the academic year definition has been granted under 34 CFR 668.3.* If an institution receives a waiver from the Secretary of the 30 weeks of instructional time requirement under 34 CFR 668.3, an institution may calculate a student's payment for a payment period using the following methodologies:

(i) If the program is offered in terms and credit hours, the institution uses the methodology in—

(A) Paragraph (b) of this section provided that the program meets all the criteria in paragraph (a)(1) of this section, except that in lieu of meeting the requirements in paragraph (a)(1)(ii)(B) of this section, the program provides at least the same number of weeks of instructional time in the terms specified in paragraph (a)(1)(ii)(A) of this section as are in the program's academic year; or

(B) Paragraph (d) of this section.

(ii) The institution uses the methodology described in paragraph (e)

of this section if the program is offered in credit hours without terms.

(b) *Programs using standard terms with at least 30 weeks of instructional time.* The payment for a payment period, *i.e.*, an academic term, for a student in a program using standard terms with at least 30 weeks of instructional time in two semesters or trimesters or in three quarters as described in paragraph (a)(1)(ii) of this section, is calculated by—

(1) Determining his or her enrollment status for the term;

(2) Based upon that enrollment status, determining his or her annual award; and

(3) Dividing the amount described in paragraph (b)(2) of this section by—

(i) Two at institutions using semesters or trimesters or three at institutions using quarters; or

(ii) The number of terms over which the institution chooses to distribute the student's annual award if—

(A) An institution chooses to distribute all of the student's annual award determined under paragraph (b)(2) of this section over more than two terms at institutions using semesters or trimesters or more than three quarters at institutions using quarters; and

(B) The number of weeks of instructional time in the terms, including the additional term or terms, equals the weeks of instructional time in the program's academic year.

(c) *Programs using standard terms with less than 30 weeks of instructional time.* The payment for a payment period, *i.e.*, an academic term, for a student in a program using standard terms with less than 30 weeks of

instructional time in two semesters or trimesters or in three quarters as described in paragraph (a)(2)(ii)(A) of this section, is calculated by—

(1) Determining his or her enrollment status for the term;

(2) Based upon that enrollment status, determining his or her annual award;

(3) Multiplying his or her annual award determined under paragraph (c)(2) of this section by the following fraction as applicable:

(i) In a program using semesters or trimesters—

The number of weeks of instructional time offered in *the program in the fall and spring semesters or trimesters*

The number of weeks in the program's academic year

(ii) In a program using quarters—

The number of weeks of instructional time offered in the program in the fall, winter, and spring quarters

The number of weeks in the program's academic year

; and

(4)(i) Dividing the amount determined under paragraph (c)(3) of this section by two for programs using semesters or trimesters or three for programs using quarters; or

(ii) Dividing the student's annual award determined under paragraph (c)(2) of this section by the number of terms over which the institution chooses to distribute the student's annual award if—

(A) An institution chooses to distribute all of the student's annual

award determined under paragraph (c)(2) of this section over more than two terms for programs using semesters or trimesters or more than three quarters for programs using quarters; and

(B) The number of weeks of instructional time in the terms, including the additional term or terms, equals the weeks of instructional time in the program's academic year definition.

(d) *Other programs using terms and credit hours.* The payment for a payment period, *i.e.*, an academic term, for a student in a program using terms

and credit hours, other than those described in paragraph (a)(1) or (2) of this section, is calculated by—

(1) Determining his or her enrollment status for the term;

(2) Based upon that enrollment status, determining his or her annual award; and

(3) Multiplying his or her annual award determined under paragraph (d)(2) of this section by the following fraction:

The number of weeks of instructional time in the term

The number of weeks of instructional time in the program's academic year

(e) *Programs using credit hours without terms or clock hours.* The payment for a payment period for a

student in a program using credit hours without terms or using clock hours is

calculated by multiplying the Scheduled Award by the lesser of—

(1)

The number of credit or clock hours in the payment period

The number of credit or clock hours in the program's academic year

; or

(2)

The number of weeks of instructional time in the payment period

The number of weeks of instructional time in the program's academic year

(f) *Maximum disbursement.* A single disbursement may not exceed 50

percent of an award determined under paragraph (d) or (e) of this section. If a

payment for a payment period calculated under paragraph (d) or (e) of

this section would require the disbursement of more than 50 percent of a student's annual award in that payment period, the institution must make at least two disbursements to the student in that payment period. The institution may not disburse an amount that exceeds 50 percent of the student's annual award until the student has completed the period of time in the payment period that equals, in terms of weeks of instructional time, 50 percent of the weeks of instructional time in the program's academic year.

(g) *Minimum payment.* No payment for a payment period as determined under this section or § 686.25 may be less than \$25.

(h) *Definition of academic year.* For purposes of this section and § 686.25, an institution must define an academic year—

(1) For each of its TEACH Grant-eligible undergraduate programs of study, including post-baccalaureate programs of study, in terms of the number of credit or clock hours and weeks of instructional time in accordance with the requirements of 34 CFR 668.3; and

(2) For each of its TEACH Grant-eligible master's degree programs of study in terms of the number of weeks of instructional time in accordance with the requirements of 34 CFR 668.3 and the minimum number of credit or clock hours a full-time student would be expected to complete in the weeks of instructional time of the program's academic year.

(i) *Payment period completing a Scheduled Award.* In a payment period, if a student is completing a Scheduled Award, the student's payment for the payment period—

(1) Is calculated based on the total credit or clock hours and weeks of instructional time in the payment period; and

(2) Is the remaining amount of the Scheduled Award being completed plus an amount from the next Scheduled Award, if available, up to the payment for the payment period.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.23 Calculation of a grant for a payment period that occurs in two award years.

If a student enrolls in a payment period that is scheduled to occur in two award years—

(a) The entire payment period must be considered to occur within one award year;

(b) The institution must determine for each TEACH Grant recipient the award year in which the payment period will be placed subject to the restriction set forth in paragraph (c) of this section;

(c) The institution must place a payment period with more than six months scheduled to occur within one award year in that award year;

(d) If the institution places the payment period in the first award year, it must pay a student with funds from the first award year; and

(e) If the institution places the payment period in the second award year, it must pay a student with funds from the second award year.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.24 Transfer student: attendance at more than one institution during an award year.

(a) If a student who receives a TEACH Grant at one institution subsequently enrolls at a second institution, the

student may receive a grant at the second institution only if—

(1) The student submits a SAR with an official EFC to the second institution; or

(2) The second institution obtains an ISIR with an official EFC.

(b) The second institution must calculate the student's award in accordance with § 686.22 or 686.25.

(c) The second institution may pay a TEACH Grant only for that period in which a student is enrolled in a TEACH Grant-eligible program at that institution.

(d) The student's TEACH Grant for each payment period is calculated according to the procedures in § 686.22 or 686.25 unless the remaining balance of the Scheduled Award at the second institution is the balance of the student's last Scheduled Award and is less than the amount the student would normally receive for that payment period.

(e) A transfer student must repay any amount received in an award year that exceeds the amount which he or she was eligible to receive.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.25 Correspondence study.

(a) An institution calculates a TEACH Grant for a payment period for a student in a program of study offered by correspondence courses without terms, but not including any residential component, by—

(1) Using the half-time annual award; and

(2) Multiplying the half-time annual award by the lesser of—

(i)

$$\frac{\text{The number of credit or clock hours in the payment period}}{\text{The number of credit or clock hours in the program's academic year}}$$

; or

(ii)

$$\frac{\text{The number of weeks of instructional time in the payment period}}{\text{The number of weeks of instructional time in the program's academic year}}$$

(b) For purposes of paragraph (a) of this section—

(1) An academic year as measured in credit or clock hours must consist of two payment periods—

(i) The first payment period must be the period of time in which the student completes the lesser of the first half of

his or her academic year or program; and

(ii) The second payment period must be the period of time in which the student completes the lesser of the second half of the academic year or program; and

(2)(i) The institution must make the first payment to a student for an

academic year, as calculated under paragraph (a) of this section, after the student submits 25 percent of the lessons or otherwise completes 25 percent of the work scheduled for the program or the academic year, whichever occurs last; and

(ii) The institution must make the second payment to a student for an

academic year, as calculated under paragraph (a) of this section, after the student submits 75 percent of the lessons or otherwise completes 75 percent of the work scheduled for the program or the academic year, whichever occurs last.

(c) In a program of correspondence study offered by correspondence courses using terms but not including any residential component—

(1) The institution must prepare a written schedule for submission of lessons that reflects a workload of at least 30 hours of preparation per semester hour or 20 hours of preparation per quarter hour during the term;

(2)(i) If the student is enrolled in at least six credit hours that commence and are completed in that term, the half-time annual award is used; or

(ii) If the student is enrolled in less than six credit hours that commence and are completed in that term the less-than-half-time annual award is used;

(3) A payment for a payment period is calculated using the formula in § 686.22(d) except that paragraphs (c)(1) and (2) of this section are used in lieu of § 686.22(d)(1) and (2), respectively; and

(4) The institution must make the payment to a student for a payment period after that student completes 50 percent of the lessons or otherwise completes 50 percent of the work scheduled for the term, whichever occurs last.

(d) Payments for periods of residential training must be calculated under § 686.22(d) if the residential training is offered using terms and credit hours or under § 686.22(e) if the residential training is offered using credit hours without terms or clock hours.

(Authority: 20 U.S.C. 1070g, *et seq.*)

Subpart D—Administration of Grant Payments

§ 686.30 Scope.

This subpart deals with TEACH Grant program administration by a TEACH Grant-eligible institution.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.31 Determination of eligibility for payment and cancellation of a TEACH Grant.

(a) For each payment period, an institution may pay a grant under this part to an eligible student only after it determines that the student—

(1) Is eligible under § 686.11;

(2) Has completed the relevant initial or subsequent counseling as required in § 686.32;

(3) Has signed an agreement to serve as described in § 686.12;

(4) Is enrolled in a TEACH Grant-eligible program; and

(5) If enrolled in a credit-hour program without terms or a clock-hour program, has completed the payment period, as defined in 34 CFR 668.4, for which he or she has been paid a grant.

(b)(1) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but changes that determination before the end of the payment period, the institution may pay a TEACH Grant to the student for the entire payment period.

(2) If an institution determines at the beginning of a payment period that a student enrolled in a TEACH Grant-eligible program is not maintaining the required GPA for a TEACH Grant under § 686.11 or is not pursuing a career in teaching, but changes that determination before the end of the payment period, the institution may pay a TEACH Grant to the student for the entire payment period.

(c) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress or the necessary GPA for a TEACH Grant under § 686.11 or is not pursuing a career in teaching, but changes that determination after the end of the payment period, the institution may not pay the student a TEACH Grant for that payment period or make adjustments in subsequent payments to compensate for the loss of aid for that period.

(d) An institution may make one disbursement for a payment period to an otherwise eligible student if—

(1)(i) The student's final high school GPA is not yet available; or

(ii) The student's cumulative GPA through the prior payment period under § 686.11 is not yet available; and

(2) The institution assumes liability for any overpayment if the student fails to meet the required GPA to qualify for the disbursement.

(e)(1) In accordance with 34 CFR 668.165, before disbursing a TEACH Grant for any award year, an institution must—

(i) Notify the student of the amount of TEACH Grant funds that the student is eligible to receive, how and when those funds will be disbursed, and the student's right to cancel all or a portion of the TEACH Grant; and

(ii) Return the TEACH Grant proceeds, cancel the TEACH Grant, or both, if the institution receives a TEACH Grant cancellation request from the student by the later of the first day of a payment period or 14 days after the

date it notifies the student of his or her right to cancel all or a portion of a TEACH Grant.

(2)(i) If a student requests cancellation of a TEACH Grant after the period of time in paragraph (e)(1)(ii) of this section, but within 120 days of the TEACH Grant disbursement date, the institution may return the TEACH Grant proceeds, cancel the TEACH Grant, or do both.

(ii) If the institution does not return the TEACH Grant proceeds, or cancel the TEACH Grant, the institution must notify the student that he or she may contact the Secretary to request that the TEACH Grant be converted to a Federal Direct Unsubsidized Loan.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.32 Counseling requirements.

(a) *Initial counseling.* (1) An institution must ensure that initial counseling is conducted with each TEACH Grant recipient prior to making the first disbursement of the grant.

(2) The initial counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the institution must ensure that an individual with expertise in title IV, HEA programs is reasonably available shortly after the counseling to answer the student's questions. As an alternative, in the case of a student enrolled in a correspondence program of study or a study-abroad program of study approved for credit at the home institution, the student may be provided with written counseling materials before the grant is disbursed.

(3) The initial counseling must—

(i) Explain the terms and conditions of the TEACH Grant agreement to serve as described in § 686.12;

(ii) Provide the student with information about how to identify low-income schools and documented high-need fields;

(iii) Inform the grant recipient that, in order for the teaching to count towards the recipient's service obligation, the high-need field in which he or she has prepared to teach must be—

(A) One of the six high-need fields listed in § 686.2; or

(B) A high-need field listed in the Nationwide List at the time and for the State in which the grant recipient begins teaching in that field.

(iv) Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completion of the agreement to serve and the conditions under which a suspension may be granted in accordance with § 686.41;

(v) Explain to the student that conditions, such as conviction of a

felony, could preclude the student from completing the service obligation;

(vi) Emphasize to the student that if the student fails or refuses to complete the service obligation contained in the agreement to serve or any other condition of the agreement to serve—

(A) The TEACH Grant must be repaid as a Federal Direct Unsubsidized Loan; and

(B) The TEACH Grant recipient will be obligated to repay the full amount of each grant and the accrued interest from each disbursement date;

(vii) Explain the circumstances, as described in § 686.43, under which a TEACH Grant will be converted to a Federal Direct Unsubsidized Loan;

(viii) Emphasize that, once a TEACH Grant is converted to a Federal Direct Unsubsidized Loan, it cannot be reconverted to a grant;

(ix) Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office;

(x) Describe the likely consequences of loan default, including adverse credit reports, garnishment of wages, Federal offset, and litigation; and

(xi) Inform the student of sample monthly repayment amounts based on a range of student loan indebtedness.

(b) *Subsequent counseling.* (1) If a student receives more than one TEACH Grant, the institution must ensure that the student receives additional counseling prior to the first disbursement of each subsequent TEACH Grant award.

(2) Subsequent counseling may be in person, by audiovisual presentation, or by interactive electronic means. In each case, the institution must ensure that an individual with expertise in title IV, HEA programs is reasonably available shortly after the counseling to answer the student's questions. As an alternative, in the case of a student enrolled in a correspondence program of study or a study-abroad program of study approved for credit at the home institution, the student may be provided with written counseling materials before the grant is disbursed.

(3) Subsequent counseling must—

(i) Review the terms and conditions of the TEACH Grant agreement to serve as described in § 686.12;

(ii) Emphasize to the student that if the student fails or refuses to complete the service obligation contained in the agreement to serve or any other condition of the agreement to serve—

(A) The TEACH Grant must be repaid as a Federal Direct Unsubsidized Loan; and

(B) The TEACH Grant recipient will be obligated to repay the full amount of

the grant and the accrued interest from the disbursement date;

(iii) Explain the circumstances, as described in § 686.34, under which a TEACH Grant will be converted to a Federal Direct Unsubsidized Loan;

(iv) Emphasize that, once a TEACH Grant is converted to a Federal Direct Unsubsidized Loan, it cannot be reconverted to a grant; and

(v) Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office.

(c) *Exit counseling.* (1) An institution must ensure that exit counseling is conducted with each grant recipient before he or she ceases to attend the institution at a time determined by the institution.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the institution must ensure that an individual with expertise in title IV, HEA programs is reasonably available shortly after the counseling to answer the grant recipient's questions. As an alternative, in the case of a grant recipient enrolled in a correspondence program of study or a study-abroad program of study approved for credit at the home institution, the grant recipient may be provided with written counseling materials within 30 days after he or she completes the TEACH Grant-eligible program.

(3) Within 30 days of learning that a grant recipient has withdrawn from the institution without the institution's knowledge, or from a TEACH Grant-eligible program, or failed to complete exit counseling as required, exit counseling must be provided either in person, through interactive electronic means, or by mailing written counseling materials to the grant recipient's last known address.

(4) The exit counseling must—

(i) Inform the grant recipient of the four-year service obligation that must be completed within the first eight calendar years after completing a TEACH Grant-eligible program in accordance with § 686.12;

(ii) Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completion of the service obligation and the conditions under which a suspension may be granted in accordance with § 686.41;

(iii) Provide the grant recipient with information about how to identify low-income schools and documented high-need fields;

(iv) Inform the grant recipient that, in order for the teaching to count towards the recipient's service obligation, the

high-need field in which he or she has prepared to teach must be—

(A) One of the six high-need fields listed in § 686.2; or

(B) A high-need field listed in the Nationwide List at the time and for the State in which the grant recipient begins teaching in that field.

(v) Explain that the grant recipient will be required to submit to the Secretary each year written documentation of his or her status as a highly-qualified teacher in a high-need field at a low-income school or of his or her intent to complete the four-year service obligation until the date that the service obligation has been met or the date that the grant becomes a Federal Direct Unsubsidized Loan, whichever occurs first;

(vi) Explain the circumstances, as described in § 686.43, under which a TEACH Grant will be converted to a Federal Direct Unsubsidized Loan;

(vii) Emphasize that once a TEACH Grant is converted to a Federal Direct Unsubsidized Loan it cannot be reconverted to a grant;

(viii) Inform the grant recipient of the average anticipated monthly repayment amount based on a range of student loan indebtedness if the TEACH Grants convert to a Federal Direct Unsubsidized Loan;

(ix) Review for the grant recipient available repayment options if the TEACH Grant converts to a Federal Direct Unsubsidized Loan, including the standard repayment, extended repayment, graduated repayment, income-contingent and income-based repayment plans, and loan consolidation;

(x) Suggest debt-management strategies to the grant recipient that would facilitate repayment if the TEACH Grant converts to a Federal Direct Unsubsidized Loan;

(xi) Explain to the grant recipient how to contact the Secretary;

(xii) Describe the likely consequences of loan default, including adverse credit reports, garnishment of wages, Federal offset, and litigation;

(xiii) Review for the grant recipient the conditions under which he or she may defer or forbear repayment, obtain a full or partial discharge, or receive teacher loan forgiveness if the TEACH Grant converts to a Federal Direct Unsubsidized Loan;

(xiv) Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office; and

(xv) Inform the grant recipient of the availability of title IV loan information in the National Student Loan Data System (NSLDS).

(5) If exit counseling is conducted through interactive electronic means, an institution must take reasonable steps to ensure that each grant recipient receives the counseling materials and participates in and completes the exit counseling.

(d) *Compliance.* The institution must maintain documentation substantiating the institution's compliance with this section for each TEACH Grant recipient. (Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.33 Frequency of payment.

(a) In each payment period, an institution may pay a student at such times and in such installments as it determines will best meet the student's needs.

(b) The institution may pay funds in one lump sum for all the prior payment periods for which the student was eligible under § 686.11 within the award year as long as the student has signed the agreement to serve prior to disbursement of the TEACH Grant. The student's enrollment status must be determined according to work already completed.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.34 Liability for and recovery of TEACH Grant overpayments.

(a)(1) Except as provided in paragraphs (a)(2) and (3) of this section, a student is liable for any TEACH Grant overpayment made to him or her.

(2) The institution is liable for a TEACH Grant overpayment if the overpayment occurred because the institution failed to follow the procedures set forth in this part or in 34 CFR part 668. The institution must restore an amount equal to the overpayment to its TEACH Grant account.

(3) A student is not liable for, and the institution is not required to attempt recovery of or refer to the Secretary, a TEACH Grant overpayment if the amount of the overpayment is less than \$25 and is not a remaining balance.

(b)(1) Except as provided in paragraph (a)(3) of this section, if an institution makes a TEACH Grant overpayment for which it is not liable, it must promptly send a written notice to the student requesting repayment of the overpayment amount. The notice must state that failure to make the requested repayment, or to make arrangements satisfactory to the holder of the overpayment debt to repay the overpayment, makes the student ineligible for further title IV, HEA program funds until final resolution of the TEACH Grant overpayment.

(2) If a student objects to the institution's TEACH Grant overpayment

determination, the institution must consider any information provided by the student and determine whether the objection is warranted.

(c) Except as provided in paragraph (a)(3) of this section, if the student fails to repay a TEACH Grant overpayment or make arrangements satisfactory to the holder of the overpayment debt to repay the TEACH Grant overpayment, after the institution has taken the action required by paragraph (b) of this section, the institution must refer the overpayment to the Secretary for collection in accordance with procedures required by the Secretary. After referring the TEACH Grant overpayment to the Secretary under this section, the institution need make no further efforts to recover the overpayment.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.35 Recalculation of TEACH Grant award amounts.

(a) *Change in enrollment status.* (1) If the student's enrollment status changes from one academic term to another academic term within the same award year, the institution must recalculate the TEACH Grant award for the new payment period taking into account any changes in the cost of attendance.

(2)(i) If the student's projected enrollment status changes during a payment period after the student has begun attendance in all of his or her classes for that payment period, the institution may (but is not required to) establish a policy under which the student's award for the payment period is recalculated. Any such recalculations must take into account any changes in the cost of attendance. In the case of an undergraduate or post-baccalaureate program of study, if such a policy is established, it must be the same policy that the institution established under 34 CFR 690.80(b) for the Federal Pell Grant Program and it must apply to all students in the TEACH Grant-eligible program.

(ii) If a student's projected enrollment status changes during a payment period before the student begins attendance in all of his or her classes for that payment period, the institution must recalculate the student's enrollment status to reflect only those classes for which he or she actually began attendance.

(b) *Change in cost of attendance.* If the student's cost of attendance changes at any time during the award year and his or her enrollment status remains the same, the institution may, but is not required to, establish a policy under which the student's TEACH Grant award for the payment period is recalculated. If such a policy is

established, it must apply to all students in the TEACH Grant-eligible program.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.36 Fiscal control and fund accounting procedures.

(a) An institution must follow the provisions for maintaining general fiscal records in this section and in 34 CFR 668.24(b).

(b) An institution must maintain funds received under this section in accordance with the requirements in 34 CFR 668.164.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.37 Institutional reporting requirements.

(a) An institution must provide to the Secretary information about each TEACH Grant recipient that includes but is not limited to—

(1) The student's eligibility for a TEACH Grant, as determined in accordance with §§ 686.11 and 686.31;

(2) The student's TEACH Grant amounts; and

(3) The anticipated and actual disbursement date or dates and disbursement amounts of the TEACH Grant funds.

(b) An institution must submit the initial disbursement record for a TEACH Grant to the Secretary no later than 30 days following the date of the initial disbursement. The institution must submit subsequent disbursement records, including adjustment and cancellation records, to the Secretary no later than 30 days following the date the disbursement, adjustment, or cancellation is made.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.38 Maintenance and retention of records.

(a) An institution must follow the record retention and examination provisions in this part and in 34 CFR 668.24.

(b) For any disputed expenditures in any award year for which the institution cannot provide records, the Secretary determines the final authorized level of expenditures.

(Authority: 20 U.S.C. 1070g, *et seq.*)

Subpart E—Service and Repayment Obligations

§ 686.40 Documenting the service obligation.

(a) Except as provided in §§ 686.41 and 686.42, within 120 days of completing or otherwise ceasing enrollment in a program of study for which a TEACH Grant was received, the grant recipient must confirm to the Secretary in writing that—

(1) He or she is employed as a full-time teacher in accordance with the terms and conditions of the agreement to serve described in § 686.12; or

(2) He or she is not yet employed as a full-time teacher but intends to meet the terms and conditions of the agreement to serve described in § 686.12.

(b) If a grant recipient is performing full-time teaching service in accordance with the agreement to serve, or agreements to serve if more than one agreement exists, the grant recipient must, upon completion of each of the four required elementary or secondary academic years of teaching service, provide to the Secretary documentation of that teaching service on a form approved by the Secretary and certified by the chief administrative officer of the school in which the grant recipient is teaching. The documentation must show that the grant recipient is teaching in a low-income school. If the school at which the grant recipient is employed meets the requirements of a low-income school in the first year of the grant recipient's four elementary or secondary academic years of teaching and the school fails to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of this section for that recipient.

(c)(1) In addition to the documentation requirements in paragraph (b) of this section, the documentation must show that the grant recipient—

(i) Taught a majority of classes during the period being certified in any of the high-need fields of mathematics, science, a foreign language, bilingual education, English language acquisition, special education, or as a reading specialist; or

(ii) Taught a majority of classes during the period being certified in a State in another high-need field designated by that State and listed in the Nationwide List, except that teaching service does not satisfy the requirements of the agreement to serve if that teaching service is in a geographic region of a State or in a specific grade level not associated with a high-need field of a State designated in the Nationwide List as having a shortage of elementary or secondary school teachers.

(2) If a grant recipient begins qualified full-time teaching service in a State in a high-need field designated by that State and listed in the Nationwide List and in subsequent years that high-need field is no longer designated by the State in the Nationwide List, the grant recipient will be considered to continue to perform qualified full-time teaching service in a high-need field of that State

and to continue to fulfill the service obligation.

(d) Documentation must also provide evidence that the grant recipient is a highly-qualified teacher.

(e) For purposes of completing the service obligation, the elementary or secondary academic year may be counted as one of the grant recipient's four complete elementary or secondary academic years if the grant recipient completes at least one-half of the elementary or secondary academic year and the grant recipient's school employer considers the grant recipient to have fulfilled his or her contract requirements for the elementary or secondary academic year for the purposes of salary increases, tenure, and retirement if the grant recipient is unable to complete an elementary or secondary academic year due to—

(1) A condition that is a qualifying reason for leave under the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2612(a)(1) and (3)); or

(2) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), under a call to active service in connection with a war, military operation, or a national emergency.

(f) A grant recipient who taught in more than one qualifying school during an elementary or secondary academic year and demonstrates that the combined teaching service was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools involved, is considered to have completed one elementary or secondary academic year of qualifying teaching.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.41 Periods of suspension.

(a)(1) A grant recipient who has completed or who has otherwise ceased enrollment in a TEACH Grant-eligible program for which he or she received TEACH Grant funds may request a suspension from the Secretary of the eight-year period for completion of the service obligation based on—

(i) Enrollment in a program of study for which the recipient would be eligible for a TEACH Grant or in a program of study that has been determined by a State to satisfy the requirements for certification or licensure to teach in the State's elementary or secondary schools;

(ii) A condition that is a qualifying reason for leave under the FMLA; or

(iii) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), under a call to active service in connection with a war, military operation, or a national emergency.

(2) A grant recipient may receive a suspension described in paragraphs (a)(1)(i) and (ii) of this section in one-year increments that—

(i) Does not exceed a combined total of three years under both paragraphs (a)(1)(i) and (ii) of this section; or

(ii) Ends upon the completion of the military service in paragraph (a)(1)(iii) of this section.

(b) A grant recipient must apply for a suspension in writing on a form approved by the Secretary prior to being subject to any of the conditions under § 686.43(a)(1) through (a)(5) that would cause the TEACH Grant to convert to a Federal Direct Unsubsidized Loan.

(c) A grant recipient must provide the Secretary with documentation supporting the suspension request as well as current contact information including home address and telephone number.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.42 Discharge of agreement to serve.

(a) *Death.* If a grant recipient dies, the Secretary discharges the obligation to complete the agreement to serve based on an original or certified copy of the grant recipient's death certificate, an accurate and complete photocopy of the original or certified copy of the grant recipient's death certificate, or, on a case-by-case basis, reliable documentation acceptable to the Secretary.

(b) *Total and permanent disability.* (1) A grant recipient's agreement to serve is discharged if the recipient becomes totally and permanently disabled, as defined in 34 CFR 682.200(b), and the grant recipient applies for and satisfies the eligibility requirements for a total and permanent disability discharge in accordance with 34 CFR 685.213.

(2) The eight-year time period in which the grant recipient must complete the service obligation remains in effect during the conditional discharge period described in 34 CFR 685.213(c)(2) unless the grant recipient is eligible for a suspension based on a condition that is a qualifying reason for leave under the FMLA in accordance with § 686.41(a)(1)(ii)(D).

(3) Interest continues to accrue on each TEACH Grant disbursement unless

and until the TEACH Grant recipient's agreement to serve is discharged.

(4) If the grant recipient satisfies the criteria for a total and permanent disability discharge during and at the end of the three-year conditional discharge period, the Secretary discharges the grant recipient's service obligation.

(5) If, at any time during or at the end of the three-year conditional discharge period, the Secretary determines that the grant recipient does not meet the eligibility criteria for a total and permanent disability discharge, the Secretary ends the conditional discharge period and the grant recipient is once again subject to the terms of the agreement to serve.

(Authority: 20 U.S.C. 1070g, *et seq.*)

§ 686.43 Obligation to repay the grant.

(a) The TEACH Grant amounts disbursed to the recipient will be converted into a Federal Direct Unsubsidized Loan, with interest accruing from the date that each grant disbursement was made and be collected by the Secretary in accordance with the relevant provisions of subpart A of 34 CFR part 685 if—

(1) The grant recipient, regardless of enrollment status, requests that the TEACH Grant be converted into a Federal Direct Unsubsidized Loan because he or she has decided not to

teach in a qualified school or field or for any other reason;

(2) Within 120 days of ceasing enrollment in the institution prior to completing the TEACH Grant-eligible program, the grant recipient has failed to notify the Secretary in accordance with § 686.40(a);

(3) Within one year of ceasing enrollment in the institution prior to completing the TEACH Grant-eligible program, the grant recipient has not—

(i) Been determined eligible for a suspension of the eight-year period for completion of the service obligation as provided in § 686.41;

(ii) Re-enrolled in a TEACH Grant-eligible program; or

(iii) Begun creditable teaching service as described in § 686.12(b);

(4) The grant recipient completes the course of study for which a TEACH Grant was received and does not actively confirm to the Secretary, at least annually, his or her intention to satisfy the agreement to serve; or

(5) The grant recipient has completed the TEACH Grant-eligible program but has failed to begin or maintain qualified employment within the timeframe that would allow that individual to complete the service obligation within the number of years required under § 686.12.

(b) A TEACH Grant that converts to a loan, and is treated as a Federal Direct Unsubsidized Loan, is not counted

against the grant recipient's annual or any aggregate Stafford Loan limits.

(c) A grant recipient whose TEACH Grant has been converted to a Federal Direct Unsubsidized Loan—

(1) Enters a six-month grace period prior to entering repayment, and

(2) Is eligible for all of the benefits of the Direct Loan Program, including an in-school deferment.

(d) A TEACH Grant that is converted to a Federal Direct Unsubsidized Loan cannot be reconverted to a grant.

(Authority: 20 U.S.C. 1070g, *et seq.*)

PART 690—FEDERAL PELL GRANT PROGRAM

■ 42. The authority citation for part 690 is revised to read as follows:

Authority: 20 U.S.C. 1070a, 1070g, unless otherwise noted.

■ 43. Section 690.2 is amended by:

■ A. In paragraph (b), adding, in alphabetical order, the terms "Teacher Education Assistance for College and Higher Education (TEACH) Grant Program" and "TEACH Grant".

■ B. Revising the authority citation to read as follows:

§ 690.2 Definitions.

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(Authority: 20 U.S.C. 1070a, 1070g)

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