



New York State Education Department

Laws and Regulations relating to the Tuition Assistance Program

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Are you confused by the rules, regulations and laws?



Higher Education: The Legal Framework

- [New York State Constitution, Article XI, §2](#): Continues The University of the State of New York (“USNY”) as a corporation governed by the Board of Regents (“BOR”); specifies that the Legislature may increase, modify, or diminish the BOR’s powers.
- [Education Law §214](#): USNY includes all institutions of higher education incorporated in New York State, all secondary institutions, and such other institutions as admitted by the BOR.
- [Education Law §216 and 8 NYCRR §3.2](#): Authorizes the BOR to charter (incorporate) colleges and universities.
- [Education Law §218 and 8 NYCRR §3.46](#): No institution in this State shall confer any degree unless so authorized by its charter or by authorization of the BOR.

- [8 NYCRR §13.1](#): Gives the Commissioner the power to establish regulations governing the registration of courses of study.
- [8 NYCRR §50.1 and Parts 52 and 54](#): Contain definitions and standards for registration of undergraduate and graduate curricula.
- [Education Law §602 and 8 NYCRR Subparts 145-1 and 145-2](#): Prescribes the duties of the Commissioner in the administration of the Tuition Assistance Program (TAP) and other State student aid programs and implements the requirement that the Commissioner promulgate certain regulations.
- [Education Law §607 and 8 NYCRR Part 53](#): Requires that higher education institutions include in catalogs information on institutional and financial aid for students.

Education Law

Provisions of §661



- Application for funds is required annually
- Citizenship
 - Citizen
 - Permanent resident
 - Refugee designated by the Attorney General of the U.S.
- Matriculated in an approved program in an accredited institution located in the state
 - Study abroad is acceptable if part of the approved program
- Must be in full-time attendance as defined by the Commissioner
 - Except for students who are disabled as defined by the Americans With Disability Act of 1990, 42 USC 12101

- Secondary School completion

- Certificate of graduation
- Recognized equivalent (GED)
- Ability to Benefit examination

- State resident

- Have been a legal resident during his last two semesters of high school either prior to graduation, or prior to admission to college
- Have been a legal resident for at least one year immediately preceding the beginning of the semester, quarter or term of attendance
- If claimed as a dependent for income tax purposes shall, considered to reside at the residence of such parent, unless the student submits evidence satisfactory to the president that the student's residence is elsewhere
- New York state residency eligibility requirement is waived for a member, or the spouse or dependent of a member, of the armed forces of the United States on full-time active duty and stationed in this state





- **Restrictions**

- Must be matriculated in an approved program, as defined by the commissioner pursuant to §601(4)
 - Cannot be in default on a student loan made under any statutory New York state or federal education loan program
 - Cannot be incarcerated in any federal, state or other penal institution
- The President of HESC shall make TAP award to students not eligible under §667 who are attending a school that:
 - Exempt under IRS §501(c)(3)
 - Accredited
 - Eligible under Title IV HEA
 - Eligible for Pell under 20 U.S.C. §1070
 - Provides a program of at least 3 years

Education Law

Provisions of §662



- Revocation of Awards
 - Failed to comply with the regulations
 - Failed to observe the rules, regulations or conditions prescribed or imposed by the institution attended
 - Award was made through error, or contrary to law

Education Law

Provisions of §663



- Income serves as a determinant of amount of awards
- Income is:
 - Total of the combined net taxable income and income from pensions of New York state, local governments, the federal government and any private employer of the applicant, the applicant's spouse, and the applicant's parents, including any pension and annuity income excluded for purposes of taxation
- Income is not:
 - Any amount received by an applicant as a scholarship at an educational institution or as a fellowship grant



- Student shall be considered emancipated:
 - Applicant is a student who is married
 - Undergraduate student who has reached the age of twenty-two
 - Has not resided and will not reside with his or her parents for more than six weeks
 - Has not and will not receive financial assistance or support valued in excess of seven hundred fifty dollars from his or her parents
 - Has not and will not be claimed as a dependent by either parent for purposes of either federal or state income tax
 - Applicant was enlisted in full time active military service in the armed forces of the United States and has been honorably discharged from such service
 - Applicant has reached the age of thirty-five

Education Law

Provisions of §664



- Concurrent awards are only allowed under special circumstances
 - A tuition assistance program award, a regents award for children of deceased and disabled veterans and a regents award for children of deceased police officers, firemen and volunteer firefighters, and correction officers of the state or any political subdivision thereof, and may also receive benefits under one or all of these awards concurrently with an academic performance award or federal or other awards
 - A tuition assistance award and a scholarship for academic achievement



- Tuition assistance program awards shall not be awarded if an applicant:
 - does not meet the citizenship requirements
 - does not meet the income requirements
 - does not maintain good academic standing
 - is in default in the repayment of any state or federal student loan
 - is incarcerated in any federal, state or other penal institution

Education Law

Provisions of §665



- Awards to each recipient shall be paid in separate installments on a prorated basis, for each semester, quarter, or other term of attendance during the academic year
- Each institution of post-secondary education shall certify that each student in attendance at that institution who has applied for an award is eligible for such award in accordance with all criteria established for such award by statute and regulation
- Comptroller shall audit institutional adherence to the statutes, rules and regulations



- Students must repay funds if:
 - Payment as a result of administrative error
 - False or erroneous statement on the application
 - Any other act of omission or commission on the part of the student, spouse, or parents
- Institutions must repay funds if:
 - Inadequate administrative procedures resulted in the incorrect certification of the eligibility
 - Institution failed to conduct an approved program
- Suspension of payments:
 - Loss of good academic standing
 - Failure to make satisfactory progress toward the completion of the program's academic requirements

Education Law

Provisions of §665-a



- Institutions must enter into a written agreement with HESC to participate
 - HESC may suspend, limit, or terminate an institution's participation if the institution violated any applicable laws, rules or procedures

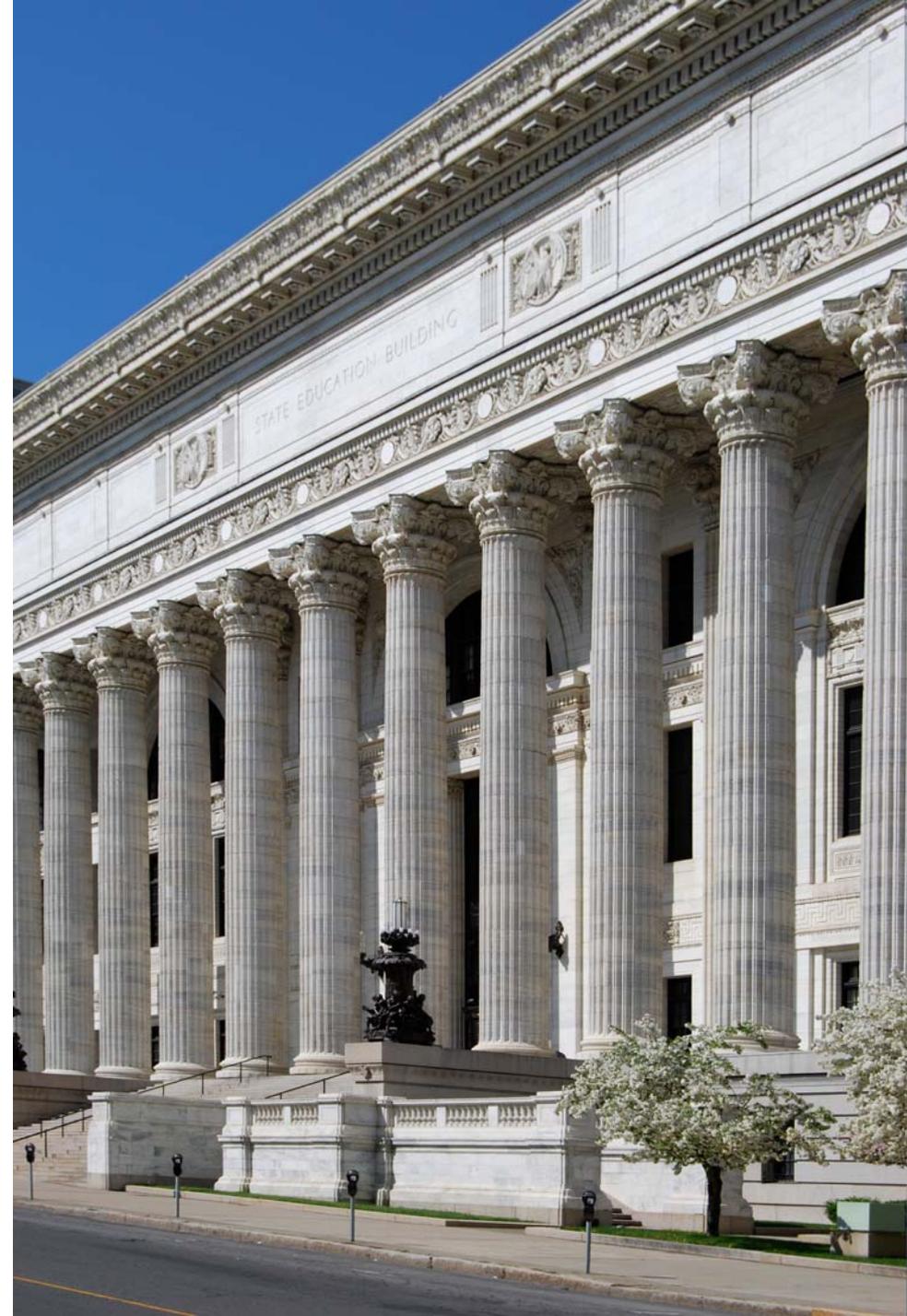
Education Law

Provisions of §667



- No undergraduate shall be eligible for more than four academic years of study, or five academic years if the program of study normally requires five years
- Students enrolled in a program of remedial study shall be considered as enrolled in a program of study normally requiring five years

Commissioner's Regulations Part 145



Chapter II - Subchapter I – Subpart 145-1



- §145-1.3 – If legal residence is a requirement, the award is maintained as long as residence is maintained, if cancelled the award could not be reinstated
- §145-1.9 – A leave of absence may be granted prior to the receipt of the first award payment for special circumstances
 - Illness
 - Financial
 - Active service in the Armed Forces
 - Service in national programs (e.g. Peace Corps)
 - Other reason approved by the Commissioner

Chapter II - Subchapter I – Subpart §145-2



- §145-2.1 (a)(1) - Full-time study means enrollment in credit bearing courses applicable to the student's program of study; at least 12 semester hours; for a semester of 15 weeks or at least 100 calendar days
 - 8 credit hours per quarter
- §145-2.1(e) - A student will be deemed to meet the full-time or part-time study requirement in their last semester of eligibility if the student takes at least one course needed to meet their graduation requirements and the student enrolls in and completes at least 12 semester hours or its equivalent.

§145-2.2



- Failure of the student to pursue the program of study will result in the loss of eligibility to receive an award
- Each institution shall use the academic progress standards in EDL §665 or a stricter standard
- A one time waiver is possible if the institution makes its criteria and procedures for waivers available to students and the public; SED can require the institution to revise criteria and procedures found unacceptable.

§145-2.3



- §145-2.3 (b) - Approved programs
 - (1) Collegiate level programs are programs registered by the State Education Department under §52.2 applying to a program leading to a degree, or leading to a diploma or certificate fully creditable towards a degree
 - (2) Noncollegiate programs
 - Hospital programs of professional nursing (§52.12(a)(1))
 - Other health related programs (§52.12(a)(2))
 - Two year programs in registered private business schools (Part 126)

§145-2.4



- §145-2.4(a) – Matriculated status
 - Application for enrollment
 - Institution recognizes the student as a candidate for the degree, diploma or certificate
- §145-2.4(b) – Non-matriculated
 - Enrolled for courses solely to complete teacher certification, licensing or other external requirements, or solely for personal or cultural advancement, and not recognized as a candidate for a degree, diploma or certificate
- §145-2.4(d) - Retroactive matriculation by the school shall not establish retroactive eligibility

§145-2.4



- §145-2.4(e) - Students enrolled in a degree granting institution other than the institution in which they are matriculated must be certified as eligible for tuition assistance by the matriculating institution.
 - In order to certify eligibility for State financial aid, the matriculating institution must receive all grades and tuition costs from the school attended.
- §145-2.4(f) - A student must declare a major within 30 days of the end of the institution's add/drop period of the sophomore year in a 2-year program or within 30 days of the end of the add/drop period of the junior year of a baccalaureate program;
 - Major must be registered by the State Education Department and appear on the Inventory of Registered Programs as a program eligible for State student aid

§145-2.5



- §145-2.5 - To be considered in attendance at a school in New York State, the student must:
 - Either be matriculated at that school, or
 - Be registered at that school under permit from another school in New York State at which the student is regularly matriculated
 - A student who is regularly matriculated at an out of state school and who attends a New York State school without full transfer and matriculation shall be considered as an out of state student.
 - Off campus study programs must be an integral part of the curriculum of the New York State institution, and tuition must be in the same manner as tuition charged for any other school program

§145-2.6



- §145-2.6 - Awards shall not be provided for study in programs that provide professional training in theology or religious education

§145-2.7



- §145-2.7 – Five year programs
 - A student shall be eligible for a fifth year of benefits so long as the student is currently enrolled in a five year program
 - A student who requires more than four years to complete a program normally completed in four years shall not be considered as enrolled in a five year program
 - A student shall also be considered to be enrolled in a five year program if enrolled in a HEOP, EOP, or SEEK program, or in any other organized program of remedial study approved by the commissioner

§145-2.8



- §145-2.8 – Non instructional external degree programs
 - Students enrolled in approved non instructional external degree programs shall be considered in matriculated status

§145-2.9



- §145-2.9 - Accelerated study
 - Provides the guidelines for eligibility to receive payment for accelerated study beyond the regular program of study for the academic year
 - Accelerated study means:
 - The term of study shall be a separately organized term in addition to the regular academic year, with separate registration and separate charge for tuition and fees
 - Accelerated study shall be accompanied by accelerated tuition charges, so that the total tuition charge upon completion of the accelerated program is comparable to the total tuition charge for the non-accelerated program

§145-2.10



- §145-2.10
 - Educational fees
 - Library fees, registration fees, laboratory fees and diploma fees
 - Non-educational fees
 - Athletic fees, student publication fees, health fees and insurance, student activities fees, maintenance costs, cost of books or uniforms, late registration fees, laboratory breakage fees, and graduation assessment costs other than diploma fees

§145-2.11



- §145-2.11
 - A student matriculated for a post baccalaureate degree, or in a professional school of medicine, dentistry, podiatry, veterinary medicine, or law, shall be considered enrolled at the graduate level
 - A student matriculated for an undergraduate degree shall not be considered at the graduate level, even if concurrently enrolled for graduate level courses
 - A college graduate who is matriculated for a second baccalaureate degree shall be considered to be enrolled in undergraduate study, unless the program is designated as graduate by the Commissioner
 - Admission to such program is limited to persons with baccalaureate degrees

§145-2.12



- Repealed

§145-2.13



- §145-2.13

- The following educational aid shall be considered to duplicate the purposes of tuition assistance program awards
 - Federal award which provided tuition assistance
 - Tuition grant by a NYS department or agency
 - Tuition remission or a tuition grant or waiver awarded by the institution under special conditions
 - Other grants or scholarships which combined would exceed the student's full cost of tuition and maintenance
- The following educational aid shall NOT be considered to duplicate
 - G.I. Bill
 - War Orphans Educational Aid
 - Educational opportunity grants
 - Special assistance to disadvantaged students
 - SED Office of Vocational Rehabilitation
 - Commission for the Blind and Visually Handicapped
 - Institutional athletic or academic prizes
 - Institutional non-service grants

§145-2.14



- §145-2.14
 - Category II tuition assistance grant
 - The award of a high school equivalency diploma shall be considered in the same manner as high school graduation
 - Eligibility limitation shall not apply to high school students who enroll for incidental college courses for acceleration purposes without formal admission or matriculation by the postsecondary institution

§145-2.15



- §145-2.15 – Ability to benefit tests
 - Students shall have a certificate of graduation from a recognized school providing secondary education from a state within the United States, or the recognized equivalent of such certificate, or receive a passing score on a federally approved ability to benefit test identified by the Board of Regents as satisfying the eligibility requirements of this section that has been independently administered and evaluated
 - The department shall publish a list of ability to benefit tests that the Board of Regents has identified as satisfactory in determining eligibility

Questions



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