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OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 8. EDUCATION DEPARTMENT

CHAPTER I. RULES OF THE BOARD OF REGENTS

PART 27. HIGHER EDUCATION OPPORTUNITY PROGRAMS

SUBPART 27-1. NONPUBLIC INSTITUTIONS

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27-1.1 Student eligibility.

To be eligible for benefits pursuant to the provisions of section 6451 of the Education Law, a student must be both educationally and economically disadvantaged according to the following criteria:

(a) Educationally disadvantaged.

Each institution shall establish its own criteria for educationally disadvantaged, which shall include, but not be limited to, the following factors: predicting a student's probability of academic success, and nonadmissibility, by the college's normal admissions standards, to the college at the matriculated status in a degree program. Consideration for admission into this program shall be given to the most educationally disadvantaged students based on each institution's established criteria. Recipients of regents scholarships for academic excellence are not eligible. Students who previously attended another institution at which they were enrolled in an opportunity program pursuant to Education Law sections 6451 and 6452 may be eligible for the benefits of the HEOP program at the latter institution.

(b) Economically disadvantaged.

(1) A student is economically disadvantaged if he or she is a member of a household where the total annual income of such household is equal to or less than 185 percent of the amount under the annual United States Department of Health and Human Services poverty guidelines for the applicant's family size for the applicable year. Federal poverty guidelines are published annually by the Department of Health and Human Services in the *Federal Register*. Moreover, the opportunity programs defined by Education Law sections 6451 and 6452 (HEOP, EOP, SEEK/CD) are expected to give priority to the recruitment and enrollment of applicants whose life patterns are characterized by historical economic and educational disadvantage.

(i) Indicators of historical economic and educational disadvantage may include evidence that the student or the student's family has endured long-term economic deprivation, membership in a group underrepresented in higher education, a history of high unemployment rates, a record of poor academic performance, and/or little or no accumulation of assets. Other indicators may include that the applicant or the applicant's family are unable to provide for more than the basic needs of family members and may be dependent on public assistance.

(ii) Loss of employment, or the separation, divorce or death of a wage earner in the calendar year prior to the academic year for which eligibility is being established and a resulting decrease in family income below income guidelines is not, in itself, sufficient to establish historical economic disadvantage. Such cases must be reviewed carefully in order to determine longer term past patterns of economic disadvantage.

(2) A maximum of 15 percent of the total number of HEOP students enrolled by an institution at any given time may come from households whose income exceeds 185 percent of the amount under the annual United States Department of Health and Human Services poverty guidelines for the applicant's family size for the applicable year, provided such institution has established to the satisfaction of the commissioner or his/her designee that unusual and extenuating circumstances as defined in this paragraph, exist for each such student. Documentation shall be kept on file by the institution at which such students were enrolled, and shall be corroborated by a disinterested, reliable party. For purposes of this paragraph, unusual and extenuating circumstances shall be limited to the following:

(i) serious mismanagement of the household income with little accruing to the interest of the student; or

(ii) a one-time fluctuation in household income where there is a history of low income. Satisfactory evidence that a household's income in the calendar year prior to the calendar year used for determining the student's economic eligibility fell within the limits of the applicable household income scale shall be sufficient to establish the existence of a one-time fluctuation in household income, if there is satisfactory proof of a history of low income; or

(iii) households with substantial long-term nonreimbursed medical obligations; or

(iv) families which must maintain two households to maintain employment if there is satisfactory documentation of a history of low income.

(4) Reference to the household income scale need not be made if the student falls into one of the following categories, and documentation is available:

(i) the student's family is the recipient of family assistance program aid or safety net assistance through the New York State Office of Temporary and Disability Assistance or a county department of social services; or is the recipient of family day-care payments through the New York State Office of Children and Family Services or a county department of social services or their successor offices;

(ii) the student is living with foster parents who do not provide support for college, and no monies are provided from the natural parents; or

(iii) the student is a ward of the State or a county.

(5) The eligibility standards set forth in this section apply only at the time of admission as a first-time freshman to a program. Once admitted, a student will continue to receive supportive services as needed, even if the family income rises above the current eligibility standards. However, a student's economic status shall be reviewed under a recognized needs analysis system each year and appropriate adjustments made in the student's financial aid package.

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

- (i) Documentation of all income, earned dividends and interest: signed copy of appropriate year's tax return (I.R.S. form 1040 or 1040a or 1040EZ, or 4506).
- (ii) Documentation of no income: a copy of I.R.S. form 4506-T which has been filed by the student or family with the Internal Revenue Service or its successor office indicating that the student or parent did not file a return.
- (iii) Documentation of pension, annuity or unemployment benefits: letter from the applicable agency showing appropriate year's total award (if not reported on I.R.S. form 1040, 1040a or 1099).
- (iv) Documentation of social security, supplemental security income or Veterans Administration noneducational benefits: letter from the applicable agency showing applicable year's total award for each member of the household or I.R.S. form 1099 for each member of the household.
- (v) Documentation of social services payments: verification from a branch of the Office of Temporary and Disability Assistance or Office of Children and Family Services or their successor offices, showing year of benefits received and names of recipients.
- (vi) Documentation of child support and/or alimony: court order, affidavit, or student's financial aid form (FAF).
- (vii) Documentation of additional members in household: birth certificates, marriage certificates, third-party verification, or similar documentation acceptable to the commissioner.

(c) Income.

(1) Except as otherwise provided in paragraph (2) of this subdivision, *income*, as used in this Subpart, means all taxable and nontaxable funds which are received by the household. Such funds may be derived from sources including but not limited to wages, dividends, interest, social security, disability pensions, veterans' benefits and unemployment benefits.

(2) The following shall not constitute income:

- (i) Monies received specifically for educational purposes from sources such as social security, veteran's cost of education benefits, and education grants from the Office of Vocational Rehabilitation or its successor office.
- (ii) Social services or public assistance payments received through the family assistance program, safety net assistance, and the family day-care program, or social security supplemental income.

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TITLE 8. EDUCATION DEPARTMENT

CHAPTER I. RULES OF THE BOARD OF REGENTS

PART 27. HIGHER EDUCATION OPPORTUNITY PROGRAMS

SUBPART 27-2. PUBLIC INSTITUTIONS

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27-2.1 General plan.

A general plan for the organization, development, coordination and operation of an education opportunity program shall be submitted individually by the City University of New York and State University of New York. Such plan shall, in addition to the requirements in section 6452, include but not be limited to:

- (a) the objectives of the institution's education opportunity program, both short- and long-range;
- (b) the criteria for student eligibility for inclusion in the institution's opportunity program;
- (c) the description of program contents, including programs of counseling and advisement, tutoring, remedial, developmental and compensatory courses, and other supportive services at the constituent institutions;
- (d) procedures for the evaluation of program effectiveness;
- (e) the nature and extent of coordination with other public and nonpublic institutions in New York State;
- (f) plans for periodic reports to the Regents and the Commissioner of Education beyond those required by the Rules of the Board of Regents and the Regulations of the Commissioner of Education.

27-2.2 Date of submission.

- (a) The general plan shall be transmitted to the Board of Regents and the Commissioner of Education, or to the person designated by them by July 15, 1970.
- (b) In 1971 and thereafter, the plan will be due on or before the first day of May.
- (c) On September 1, 1970, an accounting of the number of students admitted to education opportunity programs at the constituent units of City University and State University will be forwarded to the Board of Regents and the Commissioner of Education, or to the person designated by them.

27-2.3 Financial assistance.

- (a) City University of New York and State University of New York shall each promulgate criteria for the awarding of supplemental financial assistance to students enrolled in their education opportunity program. Such criteria shall include but not be limited to family income and responsibility and projected books and maintenance costs.
- (b) Such criteria shall be transmitted to the Regents and the Director of the Budget by July 15, 1970.
- (c) Proposed changes in such criteria shall be included in the general plan to be transmitted to the Board of Regents and the commissioner pursuant to the provisions of section 27-2.1 of this Subpart, on or before the first day of May preceding the academic year in which they take effect.

27-2.4 Final report.

On or before October 15th of each fiscal year, the trustees of the State University of New York and the Board of Higher Education in New York City shall each furnish to the Regents and to other persons noted in section 6452 a comprehensive final report, including, in addition to the mandated requirements, but not limited to:

- (a) a description of the program, including variations at the constituent institutions;
- (b) the progress of students and other factors of program success with a comparison to other students enrolled in the institution;
- (c) the extent and nature of the responsibility exercised over such program by the central offices of the City University and the State University;
- (d) plans for program change, expansion and development;
- (e) the extent and nature of student and community involvement in program planning and development at the constituent institutions;
- (f) the extent and nature of faculty and staff involvement and participation in planning at the constituent institutions.

27-2.5 Interim reports.

City University and State University shall furnish such interim reports as shall be required by the Commissioner of Education.

27-2.6 Student eligibility.

To be eligible for benefits pursuant to the provisions of Education Law section 6452, a student enrolled in the City University of New York or State University of New York must be both educationally and economically disadvantaged per the criteria established in section 27-1.1 of this Part.

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