

# Accessing Pell Grants for College Programs in Correctional Settings

A SUMMARY OF THE REGULATIONS AND REQUIREMENTS

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In 2020, Congress passed the FAFSA Simplification Act that, among other things, reinstated access to Pell Grants for people in prison to pay for their college education. Now, for the first time since the 1990s, incarcerated people who are enrolled in an eligible prison education program (PEP) will be able to access federal financial assistance through the Pell Grant program.

On October 28, 2022, the U.S. Department of Education published final regulations that provide a framework for how to implement Pell reinstatement and ensure high-quality postsecondary education in correctional facilities.<sup>1</sup> These provisions outline the steps that postsecondary institutions must follow to create PEPs that are eligible for Pell Grant funds. In addition, the regulations require robust data collection and reporting to support the Department of Education in its assessment of program outcomes. The regulations will take effect on July 1, 2023.

**This fact sheet highlights the main points of the regulations and presents a simplified version of the processes they describe.**

## New regulations

The final regulations implement statutory requirements that PEPs must follow to access Pell Grants for incarcerated students—whom the regulations refer to as “incarcerated individuals.” This includes people who are serving criminal sentences in “Federal, State, or local penitentiaries, prisons, jails, reformatories, work farms, juvenile justice facilities, or other similar correctional institutions.”<sup>2</sup> A PEP within any of these facilities is considered an “additional location” of the college, even if students receive instruction through distance education or correspondence courses. Incarcerated students who are enrolled in an eligible PEP can receive Pell Grants regardless of the length of their sentence or the type of conviction.

Many of the regulations build on lessons learned from the U.S. Department of Education's Second Chance Pell Experimental Sites Initiative (Second Chance Pell).<sup>3</sup> Second Chance Pell launched in 2015 and provides a select number of colleges with the ability to access Pell Grants to serve students in prison. To date, 200 colleges teaching in 48 states, Washington, DC, and Puerto Rico have participated in Second Chance Pell.<sup>4</sup> Colleges participating in the program that wish to transition into an approved PEP will receive additional subregulatory guidance from the Department of Education in the coming months.

As described below, the regulations outline a multistep process that PEPs must follow to be allowed to access incarcerated students' Pell Grant funds. The process includes an initial two-year period of access to the grants during which college accreditation agencies evaluate the PEP and conduct a site visit. At the end of this period, the corrections agency where the PEP is located must complete an assessment to determine whether the PEP is "operating in the best interest" of the students.<sup>5</sup> If the PEP is determined to be doing so, the corrections department can then give final approval as a Pell-eligible PEP.

## Obtaining initial approval: A new process for colleges to launch programs in correctional facilities

The regulations outline a new process by which interested colleges can launch a PEP that is eligible for Pell Grants. This application process requires a robust up-front review to ensure that programs are effective and meet pre-approval standards. To be eligible for Pell Grants, PEPs must first secure approval from the relevant corrections agency and college accreditation agency, and then from the U.S. Department of Education.

**This process can be simplified into the following three steps, each of which should happen before the new PEP is launched:**

- 1** Corrections agency: The first step is for colleges to discuss potential partnerships with the relevant corrections departments, referred to as the "oversight entities" for PEPs.
- 2** College accreditation: Before the PEP is launched, college administrators are required to review the requirements for PEP accreditation and initiate a substantive change process with the relevant accreditor to open a new additional location of the college within a correctional facility.
- 3** U.S. Department of Education: Once both the oversight entity (the relevant corrections agency) and the college accreditation agency have initially approved the PEP, colleges must apply to the Department for its initial approval.

### Required components of the application include

- ↳ documentation of approval by the accreditor and the oversight entity,
- ↳ documentation detailing the methodology the oversight entity used in its initial approval of the program,
- ↳ information about the services offered to admitted students, such as academic tutoring and reentry counseling, and
- ↳ an agreement to submit required reports to the secretary of the Department of Education.

If the Department approves the PEP, the college will be authorized to administer Pell Grants to incarcerated students. In the coming months, the Department of Education will release the form that colleges will use to apply for initial approval.

## Obtaining final approval: Making a best-interest determination and maintaining high-quality prison education programs

As designated oversight entities, corrections agencies will be responsible for overseeing PEPs and assessing whether such programs are “operating in the best interest” of students. Corrections agencies must make this best-interest determination two years after the initial approval of all PEPs as part of the final approval process.

### ALTHOUGH OVERSIGHT ENTITIES HAVE DISCRETION IN THEIR EVALUATION, THE REGULATIONS REQUIRE THAT THE AGENCIES ASSESS THE FOLLOWING CRITERIA:

- 1 the experience, credentials, and turnover rates of PEP instructors;
- 2 whether the transferability of credits and applicability of credits toward degree programs are substantially similar to those of other programs within the college;
- 3 whether educational programming, career advising, and support services provided to students in the PEP are comparable to those offered on college campuses; and
- 4 whether the college ensures that all formerly incarcerated students are able to fully transfer their credits and continue their programs at any location of the college that offers a comparable program.

**In addition, although not required, oversight entities may assess the following outcome indicators as part of the best-interest determination:**

- › job placement rates,
- › the ability of students to continue their college education post-release,
- › expected earnings,
- › whether recidivism rates meet any threshold set by the oversight entity,
- › rates of completion, and
- › any other indicators pertinent to program success as determined by the oversight entity.

Colleges are responsible for expanding data collection to record this information and provide it to stakeholders.

The regulations also require the oversight entity to make the best-interest determination through a feedback process that considers input from relevant stakeholders. These stakeholders must include organizations that represent incarcerated people, representatives of incarcerated students, state education offices, and accrediting agencies. Oversight entities may include additional stakeholders as they see fit.

The oversight entity will base its final approval of a PEP on the totality of the circumstances, so falling short on some indicators does not automatically mean a program is ineligible. If the oversight entity determines that a program does not meet the best-interest standards, the program may reapply within a “reasonable timeframe.”<sup>6</sup>

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**COLLEGE ACCREDITORS WILL ALSO PLAY AN IMPORTANT ROLE IN THE FINAL APPROVAL PROCESS. AFTER A COLLEGE LAUNCHES A PEP, ACCREDITING AGENCIES WILL BE REQUIRED TO DO THE FOLLOWING:**

- › evaluate the college’s first PEP at the first two correctional facilities to ensure they meet accreditation standards,
- › conduct a site visit within one year after initiating PEPs at the first two additional locations, and
- › review and approve the methodology used by the college in its determination that the PEP meets the same standards as “substantially similar programs” offered by that college.<sup>7</sup>

## Additional provisions

### **A number of other provisions contain additional requirements for colleges to offer Pell-eligible PEPs:**

- › Typically, no more than 25 percent of students enrolled at a postsecondary institution may be incarcerated. Institutions can seek waivers to this statutory limit from the Department of Education. If a waiver is granted, the college may increase enrollment to the limit set by the Department. The department will review this limit after five years.  
Note: The department may terminate these waivers at any time.
- › The Secretary of Education may terminate an institution's approval to provide eligible PEPs if it is determined that the institution violated any terms or submitted inaccurate information to the Department of Education, an accreditor, or an oversight entity.
- › Once the Department of Education has initially approved an institution's PEP, any additional PEPs offered by that institution at the same location may be determined eligible without further review, as long as they are consistent with the institution's accreditation.
- › PEPs that offer professional licensure must be designed to meet the educational requirements of the state where the correctional facility is located (for federal prisons, the state where most people will live after release). If the state prohibits formerly incarcerated people from qualifying for licensure or employment in a specific field, the PEP will not be able to enroll incarcerated students in that licensure program.
- › The Department of Education will be required to submit annual, publicly available reports to Congress on the operation of Pell-eligible PEPs. These reports will be based on the data points submitted by colleges and oversight entities to the Secretary of Education.
- › For an incarcerated person enrolled in an eligible PEP, the total of their Pell Grants may not exceed the cost of attendance at the institution that student attends.

## Conclusion

The final regulations provide the framework for how Pell reinstatement will be implemented starting on July 1, 2023. In addition, the regulations outline the roles of corrections agencies, accreditors, and relevant stakeholders in ensuring high-quality postsecondary education in prisons, jails, and juvenile and other correctional facilities. More information from the Department of Education is forthcoming, including subregulatory guidance for existing Second Chance Pell sites and the various forms and applications related to the approval steps. However, colleges, corrections agencies, and others committed to expanding postsecondary education can start planning now.

**These key resources may be helpful for corrections agencies and colleges that are embarking on the planning process:**

- › [Prison Education Programs | Knowledge Center](#): On this web page, the Department of Education will add supplementary information as it becomes available, including the subregulatory guidance for existing Second Chance Pell sites.
- › [First Class: Starting a Postsecondary Education Program in Prison | Vera Institute](#): This guide for colleges and corrections departments can help program coordinators launch a college-in-prison program, guiding them from the decision to undertake this work to the first day of class.
- › [Postsecondary Education in Prison Programs and Accreditation—General Considerations for Peer Reviewers and Accreditors | Vera Institute](#): This is an accreditation guide for prison education programs, providing insight into the unique context and goals of postsecondary education in correctional facilities.

**FOR MORE INFORMATION**

To learn more and access other resources, visit: <https://www.vera.org/ending-mass-incarceration/dignity-behind-bars/college-in-prison/unlocking-potential-initiative>.

For more information about this publication contact Margaret diZerega, initiative director, Unlocking Potential, at [mdizerega@vera.org](mailto:mdizerega@vera.org).

**Credits**

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**Endnotes**

- 1 Pell Grants for Prison Education Programs, 87 Fed. Reg. 65426 (October 28, 2022) (to be codified as 34 C.F.R. § 600, 668, 690), <https://perma.cc/VGX2-MUMX>.
- 2 34 C.F.R. § 600.2 (2022): 65,485, <https://perma.cc/VGX2-MUMX>.
- 3 Federal Student Aid, *Experimental Sites Initiative Second Chance Pell: Evaluation Report for Award Years 2016-2017 and 2017-2018* (Washington, DC: U.S. Department of Education, 2020), <https://perma.cc/N86F-SADA>. For 911 call volume, see National Emergency Number Association (NENA), "9-1-1 Statistics," updated February 2021, <https://perma.cc/FAJ8-QV6S>.
- 4 Kelsie Chestnut, Niloufer Taber, and Jasmine Quintana, *Second Chance Pell: Five Years of Expanding Higher Education Programs in Prisons, 2016-2021* (New York: Vera Institute of Justice, 2022): 1, <https://perma.cc/HR92-WHN8>; Federal Student Aid, *Current Second Chance Pell Participants* (Washington, DC: U.S. Department of Education, 2022), <https://perma.cc/HT5C-9EVR>.
- 5 Pell Grants for Prison Education Programs, 87 Fed. Reg. 65426 (October 28, 2022) (to be codified as 34. C.F.R. § 668.236(a)(3).
- 6 34 C.F.R. § 668.241 (2022): 65,497, <https://perma.cc/VGX2-MUMX>.
- 7 34 C.F.R. § 668.241 (2022): 65,497, <https://perma.cc/VGX2-MUMX>.