

**Act 101 (72 P.S. § 1738-E(b)(1), (2), (5), (6), (7))**

**Effective: June 30, 2011**

Title 72 P.S. Taxation and Fiscal Affairs

Chapter 1. The Fiscal Code

Article XVII-E. General Budget Implementation

Subarticle B. Executive Department

**§ 1738-E. Pennsylvania Higher Education Assistance Agency**

(b) (1) The Pennsylvania Higher Education Assistance Agency may, in conformance with policies, standards, rules and regulations adopted by the State Board of Education, contract with institutions of higher education for the awarding of higher education equal opportunity program grants. Programs for which grants may be awarded shall include remedial learning services, counseling services or tutorial services. Funds provided under this subsection may not be used to pay tuition, room and board or other institutional costs or fees incurred by students.

(2) Each institution of higher education requesting a grant to provide a program under this subsection shall submit an application in a form and manner as the agency may require. The application shall include a description of the nature and the methods by which all funds granted will be used by the applicant institution to contribute to the provision, maintenance or improvement of programs designed to enhance opportunities for disadvantaged part-time and full-time students to achieve their educational goals.

(5) Beginning July 1, 2011, the rights, powers and duties exercised by the Secretary of Education under the former act of August 31, 1971 (P.L. 423, No. 101), known as the Higher Education Equal Opportunity Act, are transferred to and shall be exercised by the Pennsylvania Higher Education Assistance Agency. Existing regulations promulgated under the former Higher Education Equal Opportunity Act shall continue in full force and effect by the Pennsylvania Higher Education Assistance Agency until the agency promulgates new or additional regulations.

(6) The agency shall have access to student-level data that is collected by the Department of Education that relates to the administration of this subsection in accordance with Federal and State law.

(7) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

“Full-time student.” A bona fide resident of this Commonwealth who has been admitted as a full-time student to an institution of higher education and who is economically and educationally disadvantaged in accordance with criteria established by the State Board of Education.

“Institutions of higher education.” A postsecondary institution in this Commonwealth authorized to award degrees.

“Part-time student.” A bona fide resident of this Commonwealth who:

(1) Has been admitted into a degree program as a less than full-time student in an institution of higher education.

(2) Is enrolled in at least the equivalent of six semester credits or 225 clock hours of instruction per semester in an institution of higher education.

(3) Is economically and educationally disadvantaged in accordance with the criteria established by the State Board of Education.

**Program Standards and Eligibility Criteria for the Higher Education Equal Opportunity Act  
(22 Pa. Code §§ 44.1 et seq.)**

Title 22. Education

Part I. State Board of Education

Subpart C. Higher Education

Chapter 44. Program Standards and Eligibility Criteria for the Higher Education Equal Opportunity Act

**§ 44.1. Scope and purpose.**

(a) This chapter provides standards and eligibility criteria for programs operated by institutions of higher education under Act 101. Guidelines for the Act 101 Program issued by the Department prior to the adoption of this chapter shall cease to be effective on June 30, 1992.

(b) This chapter applies only to programs operated under Act 101.

(c) The Board's equal education opportunity policies generally applicable to institutions of higher education are in Chapter 32 (relating to equal education opportunity).

**§ 44.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act 101*--The Higher Education Equal Opportunity Act (24 P.S. §§ 2510-301--2510-305) [**repealed June 30, 2011. Currently authorized pursuant to 72 P.S. § 1738-E**]

*Act 101 student*--A student who meets the eligibility criteria of this chapter and who is enrolled in a program.

*Program*--A program operated under Act 101 and this chapter.

**§ 44.3. Eligible Grant Applicants.**

An accredited degree-granting postsecondary institution in this Commonwealth is eligible to apply for Act 101 funds.

**§ 44.4. Eligible Students.**

(a) A bona fide domiciliary of this Commonwealth who is attending an institution which is an eligible grant applicant under § 44.3 (relating to eligible grant applicants) and who is determined to be economically and educationally disadvantaged under this section is eligible for participation in the program. To be eligible for participation, a student shall meet the following criteria. The student shall be:

(1) Economically disadvantaged by having an annual family income equal to or less than 200% of the family income level established by the United States Bureau of the Census for determining poverty status and published by the United States Department of Health and Human Services in the *Federal Register*. The annual family income to be used to recruit students who will enter the program on or after July 1 of every year beginning in 2001 will be provided to institutions by the Secretary by March 31 of the same year and will be published in the *Pennsylvania Bulletin* by April 15 of the same year. The Secretary's notification under this section will comply with this chapter and will not be subject to the regulatory review procedures under section 5 of the Regulatory Review Act (71 P. S. § 745.5).

(2) Educationally disadvantaged by having a grade point average (GPA) predicted to be 2.0 or less (scale: A = 4.0). The prediction shall be based upon the criteria and formula regularly used by the institution to select students for admission. If an institution has not developed a formula for predicting a student's GPA, the term means a student who is judged unlikely to succeed academically at the institution.

(b) Act 101 Programs serve both full-time and part-time students. Full-time means that the student is carrying at least 12 credits in a semester. Part-time means that the student is carrying at least 6 credits but less than 12 credits in a semester. A participating Act 101 institution shall serve full-time students and may serve part-time students.

#### **§ 44.5. Institutional Commitment.**

(a) A participating 4-year institution shall plan a 2-year financial and academic commitment to all students entering the program. A participating 2-year institution shall plan a 1-year financial and academic commitment to all students entering the program. This commitment is subject to continued funding by the General Assembly. The institution shall arrange financial aid packages, based on needs, to assure that each Act 101 student receives adequate financial assistance to cover expenses. Act 101 funds will not be used for this purpose.

(b) An institution shall match a minimum of 15% of the cost for new programs and a minimum of 25% for continuing programs as part of the institution's commitment.

(c) The institution shall carefully evaluate every phase of the proposed program in terms of proposal development, recruitment, admissions, counseling, tutoring, course offerings, student personnel services, student retention, degree completion and postgraduate plans of Act 101 students, and shall, if necessary, be committed to altering institutional attitudes, methods and practices to maximize the Act 101 students' chances for a positive and productive higher education experience. The evaluation shall be conducted annually and the results provided to the Department under § 44.6(b) (relating to responsibility of the Department).

(d) Each program shall have an Advisory Board. The program may be guided, but not directed, by the Advisory Board. The Advisory Board shall represent the administration, faculty, student body and community. Advisory Board members from the community shall include parents and agency representatives and may include neighborhood residents. Advisory Board members shall be available to participate regularly in its meetings and activities. The Advisory Board shall be given the services of program staff persons and be empowered to create subcommittees as needed. Its total size shall be determined by the program director and eligible institution. The Advisory Board shall offer advice in areas of program development, recruitment, retention, funding and supportive services affecting Act 101 students. An orientation program for the Advisory Board shall be implemented to assure clarity of roles and comprehension of the philosophy of the program.

#### **§ 44.6. Responsibility of the Department.**

(a) The Department will implement the Act 101 Program by making grants to eligible institutions and providing oversight of institution programs.

(b) The Department will receive and review the annual evaluation reports submitted by institutions participating in the Act 101 Program under §§ 44.5(c) and 44.7(a) (relating to institutional commitment; and reports) and other reports as may be required by the Department. As deemed necessary, the Secretary or the Secretary's designee may issue advice and directives to institutions to facilitate program implementation. The advice and directives will be consistent with the act and this chapter.

(c) The Department will issue new guidelines for the Act 101 Program consistent with this chapter. The guidelines will be issued to participating institutions in sufficient time to take effect July 1, 1992.

**§ 44.7. Reports.**

(a) Annually, each institution participating in the Act 101 Program shall provide the Department information on program outcomes, including, at a minimum, student retention, degree completion and postgraduate plans of Act 101 students. The information shall be provided by the institutions at the time and in the form requested by the Secretary or the Secretary's designee.

(b) Annually, the Secretary or the Secretary's designee will report on implementation of the Act 101 Program to the Council of Higher Education. When deemed advisable, the Secretary or the Secretary's designee may recommend to the Board revisions in these standards to this chapter.

**§ 44.8. Implementation.**

Institutions of higher education which are recruiting students to enter Act 101 Programs on or after July 1, 1992 shall use the eligibility criteria in § 44.4 (relating to eligible students).