

**PART VIII. HIGHER EDUCATION ASSISTANCE  
AGENCY**

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**CHAPTER 121. STUDENT FINANCIAL AID**

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**Authority**

The provisions of this Chapter 121 issued under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. §§ 5101—5112); the act of January 25, 1966 (P. L. 1546 (1965), No. 541) (24 P. S. §§ 5151—5159); section 1 of the Veterans' Education Act of 1971 (24 P. S. § 5171); section 1 of the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and section 1 of The Institutional Assistance Grants Act (24 P. S. § 5181), unless otherwise noted.

**Source**

The provisions of this Chapter 121 adopted February 27, 1969, unless otherwise noted.

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#### Cross References

This subchapter cited in 22 Pa. Code § 121.111 (relating to application of existing Agency regulations); 22 Pa. Code § 121.121 (relating to application of existing Agency regulations); 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

### MISCELLANEOUS

#### § 121.1. Definitions.

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

*Academic term*—Semester, trimester or quarter.

*Academic year*—A period that begins on the first day of classes and ends on the last scheduled day of final examinations and that is a minimum of 30 weeks of instructional time during which, for an undergraduate educational program, a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at a school which measures program length in credit hours or at least 900 clock hours at a school which measures program length in clock hours.

*Agency or PHEAA*—The Pennsylvania Higher Education Assistance Agency.

*Board*—The Board of Directors of the Agency.

*Borrower*—All endorsers on loans authorized by this chapter.

*College entrance examination*—A Nationally-recognized standardized test used to assess college readiness chosen at the Agency's sole discretion to rank students who demonstrate the greatest potential to perform at the highest level of academic achievement.

*Disposable pay*—That part of the borrower's compensation from an employer remaining after the deduction of any amounts required by law to be withheld.

*Emergency action*—Immediate action undertaken against institutions by the President and Chief Executive Officer in a manner consistent with § 121.31(d) (relating to approved institutions in Federal Stafford Loan and Federal PLUS Loan Programs) to withhold the processing of loan applications of the institution; and in a manner consistent with § 121.191(d) (relating to administrative loan collection review procedures) against a lending institution to withhold the processing of loan applications for students borrowing through the institution.

*Federal Consolidation Loan*—A loan made in accordance with section 428C of the Higher Education Act of 1965 (20 U.S.C.A. § 1078-3).

*Federal Family Education Loan (FFEL) Program*—The loan program (formerly called the Guaranteed Student Loan (GSL) Program) authorized by Title IV-B of the Higher Education Act of 1965 (20 U.S.C.A. §§ 1071—1087-2), including the Federal Stafford Loan, Federal PLUS, Federal Supplemental Loans for Students (Federal SLS) and Federal Consolidation Loan Programs, in which lenders use their own funds to make loans to enable students or their parents to pay the costs of the student's attendance at eligible institutions.

*Federal PLUS Loan*—A loan made in accordance with section 428B of the Higher Education Act of 1965 (20 U.S.C.A. § 1078-2).

*Federal Stafford Loan*—A loan made in accordance with section 428, if subsidized, or section 428H, if unsubsidized, of the Higher Education Act of 1965 (20 U.S.C.A. §§ 1078 and 1078-8).

*Full-time basis (except for purposes of the Federal Stafford Loan and Federal PLUS Loan Programs)*—The equivalent of 12 semester credits or 450 clock hours of instruction per academic term. If the schedule of a program of study offered on a clock-hour basis does not permit the equivalent of 450 clock hours of instruction per term, full-time enrollment shall be defined as 24 clock hours of instruction per week.

*Full-time basis (for purposes of the Federal Stafford Loan and Federal PLUS Loan Programs Only)*—To be considered enrolled on a full-time basis, a student shall be carrying a full-time academic work load (other than by correspondence) as determined by the institution under a standard applicable to the students enrolled in a particular educational program. The student's work load may include any combination of courses, work, research or special studies that the institution considers sufficient to classify the student as a full-time student.

For undergraduate students, an institution's minimum standard shall equal or exceed one of the following minimum requirements:

- (i) Twelve semester hours or 12 quarter hours per academic term in an educational program using a semester, trimester or quarter system.
- (ii) Twenty-four semester hours or 36 quarter hours per academic year in an educational program using credit hours but not using a semester, trimester or quarter system or the prorated equivalent for a program of less than 1 academic year.
- (iii) Twenty-four clock hours per week for an educational program using clock hours.
- (iv) A series of courses or seminars that equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.
- (v) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work load of a full-time student.
- (vi) Other requirements as prescribed by Federal regulations.

*Guaranteed Student Loan Program*—A Federal loan guaranty program administered by the Agency that enables qualified students to secure long-term educational loans to meet the costs of postsecondary education. On July 23, 1992, the Higher Education Amendments of 1992 (Pub. L. No. 102-325), changed the name of the program to The Federal Family Education Loan Program. Whenever the term is used in this chapter, it refers to and shall be regarded as, "The Federal Family Education Loan Program."

*Guardian*—For purposes of determining domicile, a person other than a parent with whom an applicant has lived and in whose continuous direct care and control the applicant has been for a period of at least 2 years.

*Half-time basis*—At least 1/2 the work load of a full-time student, except all students enrolled solely in an eligible program of study by correspondence cannot be considered more than half time.

*Hearing examiner*—A neutral third party, not an employe or staff member of the Agency, appointed by a designated Agency official to conduct hearings on Agency matters, consider written materials, weigh the evidence presented and issue impartial decisions.

*Parent (for purposes of borrowing under the Federal PLUS Loan Program)*—A student's mother or father or legal guardian. An adoptive parent is considered to be the person's mother or father.

*President and Chief Executive Officer*—The President and Chief Executive Officer of the Agency.

*Quarter*—A period of approximately 11 weeks normally comprising 1/3 of the academic year.

*Semester*—A period of approximately 17 weeks normally comprising 1/2 of the academic year.

*Trimester*—A period of approximately 15 weeks normally comprising 1/2 of the academic year.

*Veteran*—A person who engaged in active service in the United States Army, Navy, Air Force, Marines or Coast Guard or was a cadet or midshipman at one of the service academies and was released under a condition other than dishonorable, or will be by June 30 of the academic year for which the application is made, or who was a National Guard or Reserve service member who was activated for Federal duty by Presidential order. ROTC students, cadets or midshipmen currently attending the service academies, National Guard or Reserve enlistees who were not activated for Federal duty by Presidential order or those currently serving in the United States Armed Forces and will continue to serve through June 30 of the academic year for which application is made are not considered veterans.

#### Authority

The provisions of this § 121.1 issued under the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.1 adopted February 27, 1969; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3195; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended June 19, 1981, effective June 20, 1981, 11 Pa.B. 2116; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2428; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268140) to (268143).

#### Cross References

This section cited in 22 Pa. Code § 121.5 (relating to enrollment); 22 Pa. Code § 121.44 (relating to required family financial data); 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

### § 121.2. Citizenship.

To be eligible for a Federal Family Education Loan, a student or parent borrower shall be, on or before the date of filing the loan guaranty application, one of the following:

- (1) A citizen or National of the United States.

(2) A permanent resident alien of the United States, a temporary resident who intends to become a United States citizen or resident, or a refugee in the United States for other than a temporary purpose. For the purposes of this paragraph, the United States includes the 50 states, the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

#### Authority

The provisions of this § 121.2 issued under the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.2 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; added July 27, 1973, effective July 28, 1973, 3 Pa.B. 1427; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended November 10, 1978, effective November 11, 1978, 8 Pa.B. 3084; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924. Immediately preceding text appears at serial pages (218119) to (218120).

### § 121.3. Discrimination prohibited.

The race, religious creed, color, sex, national origin, ancestry, handicap, age or marital status of a student or parent applicant will not be factors of consideration for eligibility except to the extent that adjustments or allowances based on marital status may be necessary within the State Higher Education Grant Program to properly reflect the ability of the family to finance costs of education.

#### Authority

The provisions of this § 121.3 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.3 adopted February 27, 1969; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended November 18, 1988, effective November 19, 1988, 18 Pa.B. 5155; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268144) to (268145).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

**§ 121.4. Denial of eligibility to loan defaulters.**

(a) A higher education applicant who has defaulted on an educational loan guaranteed or reinsured by the Federal government, the government of any state or institution is ineligible for an award or a disbursement of funds unless the applicant has repaid the loan in whole or in part and, in the judgment of the Agency, did not make the repayment merely to gain grant eligibility or unless the applicant otherwise shows good cause why grant eligibility should be reinstated. This includes programs administered by the United States Department of Education or PHEAA when awards have been converted to loans due to failure to meet eligibility or service requirements and the loan is in default status.

(b) Applicants denied eligibility under this section shall be entitled to review of the denial in accordance with the procedure for review and appeals as provided in §§ 121.7 and 121.8 (relating to notice of denial and preliminary review procedures; and applicant and recipient appeals and hearings).

**Authority**

The provisions of this § 121.4 issued under the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5156(e)).

**Source**

The provisions of this § 121.4 adopted February 27, 1969; amended February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended August 22, 1975, effective August 23, 1975, 5 Pa.B. 2189; amended June 19, 1981, effective June 20, 1981, 11 Pa.B. 2116; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268145) to (268146).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

**§ 121.5. Enrollment.**

To be eligible for a State higher education grant, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis. In addition, the President and Chief Executive Officer may treat students as full-time if unusual circumstances would not permit the student to comply with

the exact full-time basis requirements as defined in § 121.1 (relating to definitions). In these instances, the President and Chief Executive Officer will thereafter notify the Board of this action.

#### Authority

The provisions of this § 121.5 issued under the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.5 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 2907; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268146).

#### Cross References

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

### § 121.6. Denial of eligibility for financial assistance.

(a) To be eligible for a State higher education grant, a student applicant or recipient shall have and maintain satisfactory character. In determining whether an applicant or recipient has satisfactory character, the Agency may consider, among other factors, convictions of any of the following offenses:

(1) A criminal offense which under the laws of the United States or any state constitutes a felony.

(2) A criminal offense which under the laws of the Commonwealth constitutes murder of the first degree, felony of the first degree, felony of the second degree, felony of the third degree, misdemeanor of the first degree, misdemeanor of the second degree or misdemeanor of the third degree.

(3) A violation of section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113), except for section 13(a)(31) (35 P. S. § 780-113(a)(31)) thereof.

(b) If a State grant applicant is incarcerated, which shall be interpreted to mean confinement in a prison but to exclude residence in a “halfway house” under a so-called prerelease program, the applicant will not be eligible for State grant aid until the applicant has been released from incarceration.

(c) An applicant for any form of financial assistance may be denied eligibility if the Agency determines that the applicant or another member of the appli-



cant's family upon whom the applicant depends for support has submitted fraudulent information to the Agency.

(d) An applicant for any form of financial assistance may be denied eligibility if the Agency determines that the applicant has used educational loan funds for other than educational purposes.

(e) Eligibility for financial assistance may be denied to a person who owes a refund in a grant program as described in the Higher Education Act of 1965, act of November 8, 1965 (Pub.L. No. 89-329, 79 Stat. 1219), or on a State higher education grant.

(f) Nothing in this section limits the freedom of a student to verbal or other lawful expression of individual views or opinions.

(g) A student denied financial assistance under this section shall be afforded full recourse through an appeal to the Committee on Appeals, the Board and the courts to seek reinstatement of assistance if the assistance is determined to have been improperly denied.

#### Authority

The provisions of this § 121.6 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.6 adopted March 24, 1972, effective March 25, 1972, 2 Pa.B. 506; amended November 10, 1978, effective November 11, 1978, 8 Pa.B. 3086; amended March 28, 1980, effective March 29, 1980, 10 Pa.B. 1385; amended September 21, 1984, effective September 22, 1984, 14 Pa.B. 3426; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2428; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (138267) to (138269).

#### Cross References

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

### § 121.7. Notice of denial and preliminary review procedures.

(a) If the Agency staff determines that eligibility for financial assistance should be denied, the applicant or recipient shall be notified in writing of the determination, the grounds therefor, and his right to appeal from the decision of the Agency staff.

(b) All appeals from the decisions of the Agency staff will be reviewed initially by an Administrative Review Committee composed of staff personnel of the Agency designated by the President and Chief Executive Officer. The Adminis-

trative Review Committee may grant eligibility in cases it deems proper. This subsection supersedes 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(c) When the Agency through its Administrative Review Committee denies an applicant or recipient eligibility for financial assistance, the applicant or recipient may obtain a review of the Agency's determination by the Committee on Appeals. The Committee on Appeals will determine whether or not the applicant or recipient is eligible for financial assistance.

(d) An appeal to the Committee on Appeals shall be filed on or before the 60th day after the date on which notification of the determination by which he is aggrieved was delivered personally to the applicant or recipient or mailed to him at his last known post office address. The Committee on Appeals may waive this requirement in its discretion.

(e) The appeal shall be filed in writing at the Agency offices in Harrisburg, and must include the following information:

- (1) The name, address and PHEAA account number of the applicant or recipient.
- (2) The date of the decision being appealed.
- (3) The reasons for appeal.
- (4) The signature of the applicant or recipient.

#### Authority

The provisions of this § 121.7 issued under act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.7 adopted March 24, 1972, effective March 25, 1972, 2 Pa.B. 506; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2722; amended August 25, 1978, effective August 26, 1978, 8 Pa.B. 2338; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268148) to (268149).

#### Cross References

This section cited in 22 Pa. Code § 121.4 (relating to denial of eligibility to loan defaulters); 22 Pa. Code § 121.53 (relating to forfeiture of award); 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

**§ 121.8. Applicant and recipient appeals and hearings.**

(a) An applicant or recipient who is aggrieved by a determination of the Committee on Appeals denying him eligibility for financial assistance may file an appeal to the Board of Directors.

(b) An appeal to the Board shall be filed on or before the 15th day after the date on which notification of the determination by which he is aggrieved was delivered personally to the applicant or recipient or mailed to him at his last known post office address.

(c) Any written notice that may reasonably be construed as a request for an appeal, delivered or mailed to PHEAA's Office of General Counsel within the prescribed 15-day appeal period, advising that the applicant or recipient is aggrieved and requests a review of the determination denying him financial assistance, will be deemed to initiate and constitute an appeal. The date of initiation of an appeal delivered by mail will be determined from the postmark appearing upon the envelope in which the written communication was mailed.

(d) The appeal may be heard by the Board or, at its direction, by a hearing examiner appointed by the Chairperson of the Board of the Agency or, in the event of the unavailability of the Chairperson, by the Vice Chairperson of the Board of the Agency from a list maintained by the President and Chief Executive Officer. The hearing examiner or the Board will schedule the appeal promptly for hearing and give the applicant or recipient at least 7 days' notice of the hearing. The notice will specify the date, hour and place of hearing.

(e) Hearings will be held at the offices of the Agency in Harrisburg. During the hearing, the applicant or recipient will be given the opportunity to submit testimony or evidence, or both, in support of his contentions. The applicant or recipient will also have the right to present oral and written argument and to cross-examine any witnesses offered by the Agency. This subsection supplements 1 Pa. Code § 35.126 (relating to presentation by the parties).

(f) Where a hearing examiner has been appointed, he shall prepare or cause the preparation of a verbatim transcript of the hearing, develop findings of fact and conclusions of law, and forward these directly to the Board for review and final decision. This subsection supplements 1 Pa. Code §§ 35.131 and 35.202 (relating to recording of proceedings; and proceedings in which proposed reports are prepared).

(g) The Board will make an order or determination as appears just and proper from the evidence submitted.

(h) Notice of the decision of the Board will be mailed promptly to the applicant or recipient at his last known post office address.

(i) Where the decision of the Board is in favor of the applicant or recipient, he shall be eligible for retroactive financial assistance payments for the period during which such assistance was temporarily delayed.

(j) The decision of the Board on an appeal will become final 10 days after the date thereof. Within 30 days after the decision of the Board becomes final, the applicant or recipient may file an appeal therefrom with Commonwealth Court.

#### Authority

The provisions of this § 121.8 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); sections 3 and 4(1.2) of the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.8 adopted March 24, 1972, effective March 25, 1972, 2 Pa.B. 506; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended August 25, 1978, effective August 26, 1978, 8 Pa.B. 2338; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended February 22, 1985, effective February 23, 1985, 15 Pa.B. 670; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268149) to (268151).

#### Cross References

This section cited in 22 Pa. Code § 121.4 (relating to denial of eligibility to loan defaulters); 22 Pa. Code § 121.53 (relating to forfeiture of award); and 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); 22 Pa. Code § 121.302 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.401 (relating to application of existing agency regulations).

### § 121.9. Administrative loan collection review procedures.

(a) This section implements the administrative loan collection review process authorized by the act of April 29, 1982 (P. L. 365, No. 102) (24 P. S. § 5104.3).

(b) Administrative loan collection procedure for those loans which are held by the Agency and which are not reinsured by the United States Secretary of Education is as follows:

(1) A borrower served with a statement of claim shall file a response thereto within 30 days of receipt of the statement of claim. The statement of claim shall inform the borrower of the nature and the amount of the indebtedness, the intention of the Agency to initiate proceedings to collect the debt through garnishment and an explanation of the rights of the borrower under the law. The response shall set forth all defenses and objections which the borrower has to the statement of claim and any objections or defenses not so presented will be deemed to have been waived. The response shall admit or deny all

avertments contained in the statement of claim. An averment in a statement of claim will be deemed to be denied only if proof thereof is demanded and the borrower states either that:

(i) After reasonable investigation, the borrower is without knowledge or information sufficient to form a belief as to the truth of the averment.

(ii) The borrower is without that knowledge or information because the means of proof are within the exclusive control of an adverse party or hostile person.

(2) When a borrower files a response to a statement of claim filed in the records of the Agency, the borrower will be afforded an opportunity to enter into a written agreement with the Agency, under terms agreeable to the head of the Agency or a designee, to establish a repayment schedule. The borrower will be afforded a hearing if he does not want to enter into a repayment schedule.

(3) Hearings will be conducted by a hearing examiner appointed by the Chairperson of the Board of the Agency or, in the event of the unavailability of the Chairperson, by the Vice Chairperson of the Board of the Agency from a list maintained by the President and Chief Executive Officer and will be held at the offices of the Agency in Harrisburg. The time of the hearing will be fixed by the Agency within a reasonable time, as soon as convenient, after the receipt of the borrower's response, allowing at least 15 days' notice to be given to the borrower and the borrower's attorney, if an attorney has entered an appearance on behalf of the borrower. Notice of the hearing will be sent to the borrower by the hearing examiner, specifying the time and place for hearing. If a borrower wishes to request postponement of a hearing, the borrower shall contact the hearing examiner and provide the hearing examiner with valid reasons for the request. The hearing examiner may approve or disapprove the request in the examiner's discretion.

(4) The borrower shall have the following rights during the hearing:

(i) To present testimony and arguments in person.

(ii) To be represented by an attorney.

(iii) To confront and cross-examine adverse witnesses.

(iv) To examine all documents and records used by the Agency at the hearing. Copies of materials from the files of the Agency relevant to the hearing shall be provided at a reasonable time prior to the day of the hearing upon request without charge to the borrower.

(v) To have the Agency prove its claim by a preponderance of the evidence.

(5) A request for a hearing may be dismissed by the hearing examiner when it is withdrawn by a borrower in a writing submitted to the hearing examiner. If a borrower fails to appear at a scheduled hearing without good cause as determined by the hearing examiner, the request for a hearing will be considered abandoned and will be dismissed with prejudice by the hearing examiner.

- (6) The hearing examiner will have the following powers and duties:
- (i) To administer oaths.
  - (ii) To question witnesses presented by the Agency or the borrower.
  - (iii) To hear the evidence submitted, review the documents presented, consider the arguments and prepare a report.
  - (iv) To recommend in the report a proposed adjudication and order, supported by findings of fact and conclusions of law.
  - (v) To provide copies of the report to the President and Chief Executive Officer of the Agency and to the borrower or the borrower's attorney of record within 60 days of the hearing.
- (7) The proceedings of a hearing will be conducted in the following order:
- (i) The hearing examiner will state the purpose of the hearing, the procedure to be followed, and the manner in which the report will be transmitted to the parties.
  - (ii) The Agency will present its case.
  - (iii) The borrower or the borrower's attorney may cross-examine each witness.
  - (iv) The borrower or the borrower's attorney will present the borrower's case.
  - (v) The Agency may cross-examine each witness presented by the borrower.
  - (vi) The hearing examiner may question any witness at any time.
- (8) The borrower and the President and Chief Executive Officer of the Agency shall each have the right to file exceptions to the hearing examiner's report within 15 days after the service of a copy of the report. Failure to file exceptions within the time allowed shall constitute a waiver of all objections to the report.
- (9) Upon consideration of the record, the hearing examiner's report, and any exceptions and briefs filed by the borrower and the President and Chief Executive Officer of the Agency, the Board will enter a final order.
- (10) Any form of written communication to the Agency that may be reasonably construed as exceptions, advising that the borrower is aggrieved and desires a review of the hearing examiner's report, will be deemed exceptions to the proposed report sufficient to initiate and constitute an appeal to the Board.
- (11) When the Board receives notice of an appeal, it will place the appeal on the meeting agenda of the Board at such time in the future as the Board has received a stenographic record of the hearing before the hearing examiner and has had an opportunity to review the record. The Board may delegate to the review committee, comprised of three or more Board members designated by the Chairperson of the Board, the responsibility to review the record and hearing examiner's report to the Board and to make a recommendation for action by the Board. The review committee will provide an opportunity for the bor-

rower and the Agency to present oral argument, when requested, before rendering a recommendation for action by the Board. The Board will make the final order as appears to it just and proper.

(12) Notice of the entry of a final order by the Board will be mailed promptly to the borrower at the borrower's last known post office address. The President and Chief Executive Officer may transfer the record and the order of default to the court of common pleas of the district in which the borrower resides or, when residence within this Commonwealth cannot be ascertained, to the Court of Common Pleas of Dauphin County, to be entered as a judgment.

(13) Within 30 days of the mailing date set forth in the notice of the final order by the Board the borrower who is aggrieved by the final order may appeal the order to the court of common pleas of the district in which the borrower resides or the Court of Common Pleas of Dauphin County. Within 20 days after entry of judgment, the borrower may apply to the court in which the judgment is entered to set aside such judgment.

(14) If no appeal is filed, the Agency may execute upon the wages, salaries or commissions in the hands of an employer or other person including the borrower when self-employed by serving a notice of its intent on the borrower and a notice of execution on the employer. The notice of execution shall include the following:

(i) The total amount to be collected from the borrower.

(ii) That the amount to be remitted to the Agency for a given pay period shall be limited to 10% of the borrower's disposable pay, that being any pay remaining after the deduction of any amounts required by law to be withheld.

(iii) That the employer is not required to vary its normal pay and disbursement cycles in order to comply with paragraph (2).

(iv) That the employer will be held liable for a civil penalty equivalent to the amount of the notice of execution for wages not properly withheld after receipt of the notice of execution.

(15) This section affects 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) as follows:

(i) Subsection (b)(1) supersedes 1 Pa. Code § 35.14 (relating to orders to show cause).

(ii) Subsection (b)(3) supersedes 1 Pa. Code §§ 35.105 and 35.185 (relating to notice of nonrulemaking proceedings; and designation of presiding officers). Subsection (d) supplements 1 Pa. Code § 31.26 (relating to service on attorneys).

(iii) Subsection (b)(4)(i)—(iii) supplements 1 Pa. Code § 35.126 (relating to presentation by the parties); subsection (b)(4)(iv) supersedes 1 Pa. Code § 35.169 (relating to copies to parties and agency).

(iv) Subsection (b)(6)(i)—(iii) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers); subsection (b)(6)(iv) super-

sedes 1 Pa. Code § 35.205 (relating to contents of proposed reports); subsection (b)(6)(v) supersedes 1 Pa. Code § 35.207 (relating to service of proposed reports).

(v) Subsection (b)(7) supplements 1 Pa. Code § 35.125 (relating to order of procedure).

(vi) Subsection (b)(8) supersedes 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

(vii) Subsection (b)(9) supplements 1 Pa. Code § 35.226 (relating to final orders).

(viii) Subsection (b)(11) supersedes 1 Pa. Code § 35.214 (relating to oral argument on exceptions).

#### Authority

The provisions of this § 121.9 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.9 adopted February 11, 1983, effective February 12, 1983, 13 Pa.B. 704; amended February 22, 1985, effective February 23, 1985, 15 Pa.B. 670; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924. Immediately preceding text appears at serial pages (218127) to (218130).

### § 121.10. Administrative wage garnishment procedures for Federal loans.

(a) This section implements and incorporates by reference the Federal administrative wage garnishment process authorized under section 488A of the Higher Education Act of 1965 (20 U.S.C.A. § 1095a) and 34 CFR 682.410(b)(10) (relating to fiscal, administrative, and enforcement requirements).

(b) Loan collection procedure for those loans which are held by the Agency and which qualify as loans under the Federal Family Education Loan Program (FFELP) are as follows:

(1) If the Agency decides to garnish the disposable pay of a borrower who is not making payments on a loan held by the Agency, on which the United States Secretary of Education (Secretary) has paid a reinsurance claim, it shall do so in accordance with the procedures in section 488A of the Higher Education Act of 1965.

(2) Unless the Agency receives information that justifies a delay or cancellation of the order of withholding, it will send an order of withholding to the employer within 20 days after the borrower fails to request a hearing within 20 days of the date of mailing of the notice, or if a timely request for a hearing is



made by the borrower, within 20 days after a final decision is made by the Agency to proceed with garnishment.

(3) The Agency will provide a hearing if the borrower submits a written request for a hearing on the existence or amount of the debt or the terms of the repayment schedule. The borrower may request an oral hearing or a written hearing. The time and location of the hearing will be established by the Agency. An oral hearing may, at the borrower's option, be conducted either in-person or by telephone conference. Telephonic charges are the responsibility of the Agency.

(4) If the borrower's written request is received by the Agency on or before the 15th day following the borrower's receipt of the notice the Agency may not issue an order of withholding until the borrower has been provided the requested hearing. For purposes of this subsection, in the absence of evidence to the contrary, a borrower will be considered to have received the notice 5 days after it was mailed by the Agency. The Agency will provide a hearing to the borrower in sufficient time to permit a decision to be rendered within 60 days from the day of receipt of the borrower's hearing request.

(5) The hearing examiner appointed by the Agency to conduct the hearing may be any qualified individual not under the supervision or control of the President and Chief Executive Officer of the Agency and have the power and duty to:

- (i) Administer oaths.
  - (ii) Question witnesses presented by the Agency or by the borrower.
  - (iii) Hear evidence submitted, review the documents presented, consider arguments and prepare a report.
  - (iv) Recommend in the report a proposed adjudication and order, supported by findings of fact and conclusions of law.
  - (v) Provide copies of the report to the President and Chief Executive Officer of the Agency and to the borrower or the borrower's attorney of record at the earliest practicable date, but not later than 60 days after the Agency's receipt of the borrower's hearing request.
- (6) The proceedings of a hearing will be conducted in the following order:
- (i) The hearing examiner will state the purpose of the hearing, the procedure to be followed, and the manner in which the report will be transmitted to the parties.
  - (ii) The borrower or the borrower's attorney will present the borrower's case.
  - (iii) The Agency may cross-examine each witness presented by the borrower.
  - (iv) The Agency will present its case.
  - (v) The borrower or the borrower's attorney may cross-examine each witness presented by the Agency.
  - (vi) The hearing examiner may question any witness at any time.

(7) The borrower and the President and Chief Executive Officer of the Agency will each have the right to file exceptions to the hearing examiner's report within 15 days after the service of a copy of the report. Failure to file exceptions within the time allowed shall constitute a waiver of all objections to the report.

(8) The period of time may, for good cause, be extended upon motion made before the expiration of the 15-day time period and filed with the hearing examiner.

(9) The period of time may be extended upon motion made after the expiration of the 15-day time period where reasonable grounds are shown for failure to act. The motion shall be filed with the hearing examiner.

(10) Requests for the extension to time in which to file briefs shall be filed with the hearing examiner at least 5 days before the time fixed for filing the briefs.

(11) Upon consideration of the record, the hearing examiner's report, and any exceptions and briefs filed by the borrower and the President and Chief Executive Officer of the Agency, the Board will enter a final order.

(12) When the Board receives notice of an appeal, it will place the appeal on the meeting agenda of the Board after the Board has reviewed a stenographic record of the hearing before the hearing examiner. The Board may delegate to the review committee, comprised of three or more Board members designated by the Chairperson of the Board, the responsibility to review the record and hearing examiner's report to the Board and to make a recommendation for action by the Board. The review committee will provide an opportunity for the borrower and the Agency to present oral argument, when requested by either party, before rendering a recommendation for action by the Board. Oral argument may be conducted either in-person or by telephone conference. Telephonic charges are the responsibility of the Agency. The Board will make a final order that is just and proper.

(13) Notice of the entry of a final order by the Board will be mailed promptly to the borrower at the borrower's last known post office address.

(c) The Agency will sue any employer for any amount that the employer, after receipt of the order of withholding provided by the Agency, fails to withhold from wages owed and payable to an employe under the employer's normal pay and disbursement cycle.

(d) This section affects 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) as follows:

(1) Subsection (b)(3) supersedes 1 Pa. Code § 35.105 (relating to notice of nonrulemaking proceedings).

(2) Subsection (b)(5)(i)—(iii) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers); subsection (b)(5)(iv) supersedes 1

Pa. Code § 35.205 (relating to contents of proposed reports); subsection (b)(5)(v) supersedes 1 Pa. Code § 35.207 (relating to service of proposed reports).

(3) Subsection (b)(6) supplements 1 Pa. Code § 35.125 (relating to order of procedure).

(4) Subsection (b)(7) supersedes 1 Pa. Code § 35.211 (relating to procedure to except to proposed reports).

(5) Subsection (b)(8)—(10) supersedes 1 Pa. Code § 31.15(a) (relating to extensions of time) and supplements 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

(6) Subsection (b)(11) supplements 1 Pa. Code § 35.226 (relating to final orders).

(7) Subsection (b)(12) supersedes 1 Pa. Code § 35.214 (relating to oral argument on exceptions).

#### Authority

The provisions of this § 121.10 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.10 adopted August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924.

### § 121.11. [Reserved].

#### Source

The provisions of this § 121.11 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3237).

### § 121.12. [Reserved].

#### Source

The provisions of this § 121.12 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3237).

### § 121.13. [Reserved].

#### Source

The provisions of this § 121.13 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3238).

**§ 121.14. [Reserved].****Source**

The provisions of this § 121.14 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3238).

**§ 121.15. [Reserved].****Source**

The provisions of this § 121.15 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325. Immediately preceding text appears at serial page (3238).

**SECONDARY SCHOOL GRADUATION****§ 121.21. Requirement for higher education grant applicants.**

(a) A State higher education grant applicant shall be a graduate of or attending an approved secondary school, or be a recipient of a Commonwealth secondary school diploma or other State-issued general equivalency diplomas.

(b) An approved secondary school shall be any public or private secondary school, located in this Commonwealth or elsewhere, including foreign institutions and United States schools overseas, which in the judgment of the Pennsylvania Department of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to the standards of instruction of the public secondary schools in this Commonwealth.

(c) For purposes of the State Higher Education Grant Program, an approved secondary school shall also include any home education program that is accredited by any home schooling accreditation agency approved by the Pennsylvania Department of Education. If the home education program lacks the requisite accreditation, certification by the appropriate local school official attesting that the home education program is in compliance with section 1327.1 of the Public School Code of 1949 (24 P. S. § 13-1327.1) shall be submitted to the Agency by the appropriate local school official.

**Authority**

The provisions of this § 121.21 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.21 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268159).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.22. Early admission students.**

Student applicants who leave a State approved secondary school prior to their senior year and are admitted for the academic year or a portion thereof, immediately following their secondary school studies, to an approved institution of higher learning as early admission students shall be considered as first-year collegiate applicants and in compliance with the secondary school graduation requirement for purposes of State higher education grant eligibility if the school district of the school that the applicant had attended certified that:

- (1) The applicant left senior high school in accordance with policies and procedures previously established by the superintendent and the board of school directors to attend an approved institution of higher learning.
- (2) The high school diploma will be awarded upon the applicant's successful completion of the requirements set forth by the local board of school directors.

**Authority**

The provisions of this § 121.22 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); and The Institutional Assistance Grants Act (24 P. S. §§ 5181—5190).

**Source**

The provisions of this § 121.22 adopted February 27, 1969; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended July 29, 1977, effective July 30, 1977, 7 Pa.B. 2137; amended December 7, 1990, effective December 8, 1990, 20 Pa.B. 6044; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268159) to (268160).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**EDUCATIONAL INSTITUTIONS****§ 121.31. Approved institutions in Federal Stafford Loan and Federal PLUS Loan Programs.**

- (a) To be approved, an institution shall comply with the following:
  - (1) The institution shall be approved by the United States Secretary of Education as an eligible institution for participation in the Federal Stafford Loan or Federal PLUS Loan Programs.

(2) The institution shall have executed an Assurance of Compliance with 42 U.S.C.A. § 2000d-1 (1974) and filed it with the United States Secretary of Education.

(3) The institution shall have executed and filed with the Agency an agreement, on a form provided by the Agency, to report to or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients or beneficiaries of Agency-administered aid who have been convicted in any court of record of any criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution and facts known to the dean of students, director of financial aid and president of the institution or persons occupying these positions by titles designated by the institution.

(b) The institution shall comply with 34 CFR 668.82 (relating to standard of conduct) and other laws and regulations governing the Federal Stafford Loan and PLUS Loan Programs.

(c) Mailing dates and receipt dates referenced in this section shall be evidenced by United States Postal Service receipts. If an institution refuses or fails to accept a notice mailed as set forth in this section, the Agency shall consider the notice as being received on the date that the institution refuses or fails to accept the notice as noted by the United States Postal Service.

(d) The following provisions deal with emergency action:

(1) The President and Chief Executive Officer may take emergency action as follows against an institution under which the processing of loan applications for students at the institution is withheld if the President and Chief Executive Officer:

(i) Receives information, determined by an Agency official to be reliable, that the institution is violating applicable laws, regulations, special arrangements, agreements or limitations.

(ii) Determines that immediate action is necessary to prevent misuse of funds of the programs authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C.A. §§ 1071—1099c-1).

(iii) Determines that the likelihood of loss outweighs the importance of awaiting completion of procedures set forth for suspension, limitation or termination in subsection (e).

(2) The Agency will begin an emergency action by notifying the institution by certified mail, with return receipt requested, of the emergency action and the basis on which the action is taken. The institution shall have an opportunity to show cause that the emergency action is unwarranted via submission of written documentation to the President and Chief Executive Officer. The effective date of the action shall be the date on which the notice is mailed to the institution.

(3) An emergency action may not exceed 30 calendar days unless a suspension, limitation or termination proceeding is begun under this section before the expiration of that period. In this case, the period may be extended until the completion of that proceeding, including any appeal to the Board of Directors.

(e) The following provisions deal with suspension, limitation or termination:

(1) The President and Chief Executive Officer may suspend the eligibility of an institution to participate in the Federal Stafford Loan and Federal PLUS Loan Programs if the institution violates any applicable laws, regulations, special arrangements or agreements. The suspension may not exceed 60-calendar days unless the institution and the President and Chief Executive Officer agree to an extension if the institution has not requested a hearing or the Agency begins a limitation or termination proceeding under this section.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to suspend the institution from the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of suspension shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the suspension notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of suspension, the designated suspension date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed suspension is dismissed or the suspension is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of suspension, the date of the hearing will be scheduled at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the suspension or to dismiss it and inform the President and Chief Executive Officer and institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of suspension, the Agency will send a notice to the institution which sets forth the effective date of the suspension.

(E) If the Agency begins a limitation or termination proceeding before the suspension period ends, the suspension period may be extended until the completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the suspension so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa Code §§ 35.111—35.116 (relating to pre-hearing conferences), at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(2) If the institution violates any applicable laws, regulations, special arrangements or agreements, the President and Chief Executive Officer may limit the number or percentage of borrowers who may receive loan guaranties to attend an institution; may limit, for a stated period of time, the percentage of an institution's total receipts from tuition and fees derived from loan guaranties; may impose a requirement that an institution obtain a bond in a specified amount to assure its ability to meet its financial obligations to borrowers who receive loan guaranties; or may impose other conditions deemed to be reasonable and appropriate.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to limit the institution's participation in the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of limitation shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the limitation notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the limitation, the designated limitation date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed limitation is dismissed or the limitation is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of limitation, the date of the hearing shall be at least 15-calendar days after receipt of the request.



(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the limitation or to dismiss it and inform the President and Chief Executive Officer and the institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of limitation, the Agency will send a notice to the institution which sets forth the effective date of the limitation.

(E) If the Agency begins a termination proceeding before the limitation period ends, the limitation period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the limitation so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(3) The President and Chief Executive Officer may terminate an institution's eligibility to participate in the Federal Stafford Loan and Federal PLUS Loan Programs, if the institution violates any applicable laws, regulations, special arrangements or agreements. Termination prohibits the future guaranty of Federal Stafford Loans and Federal PLUS Loans to borrowers attending the institution.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to terminate the institution from the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of termination shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the termination notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing no less than 5-calendar days prior to the effective date of termination, the designated termination date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed termination is dismissed or the termination is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of termination, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the termination or to dismiss it and inform the President and Chief Executive Officer and institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of termination, the Agency will send a notice to the institution which sets forth the effective date of termination.

(E) The President and Chief Executive Officer will inform the United States Department of Education of any actions taken or decisions made by the Agency in regard to the termination so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(f) An institution may lose its eligibility to participate in the Federal Stafford Loan and Federal PLUS Loan Programs through other than emergency action, suspension, limitation or termination. This may occur under one or more of the following conditions:

(1) Change in ownership, administration or directorship of the institution that results in a change of control, in which case the loss of eligibility continues until the institution reestablishes eligibility as determined by the United States Secretary of Education.

(2) Permanent closure of the institution or its termination of approved educational programs.

(3) Action taken by the United States Secretary of Education under applicable Federal regulations to limit, suspend or terminate the institution's eligibility.

(g) The Agency and the institution have the right to appeal the decision of the hearing examiner to the Board of Directors of the Agency within 20-calendar days after the receipt of a copy of the decision, which shall be done by certified mail.

(1) Written notice of appeal and the material submitted in support shall be addressed to the Chairperson of the Board of Directors at the Agency's principal address, with a copy to the other party.

(2) The appealing party has 20-calendar days from the date of the notice of appeal to submit exceptions to the hearing examiner's decision and supporting briefs and statements.

(3) The opposing party has 20-calendar days from receipt of the appealing party's exceptions and brief to respond.

(4) When the Chairperson of the Board receives notice of an appeal, the Chairperson will place the appeal on the meeting agenda of the Board at a time in the future that the Board has received a record of the hearing and the briefs and supporting materials and has had an opportunity to review the record. Before issuing a final order, the Board of Directors will review the record and hearing examiner's decision and may order oral argument.

(5) Notice of a final order by the Board of Directors will be mailed promptly to the institution, the Agency and the United States Department of Education.

(6) The decision of the Board of Directors will become final upon mailing. Within 30-calendar days after the decision of the Board of Directors becomes final, the institution may file an appeal with Commonwealth Court.

(h) An institution whose eligibility to participate was limited may not apply for removal of the limitation before the expiration of 12 months from the effective date of the limitation.

(1) After the minimum limitation period, the institution may request removal of the limitation. The request shall be in writing and be supported by documented evidence that the institution has corrected the violations on which the limitation was based.

(2) Within 60-calendar days after receipt of the request, the President and Chief Executive Officer will respond to the institution by granting the request, denying the request or granting the request subject to other limitation.

(i) An institution whose eligibility to participate has been terminated may file a request of reinstatement 18 months after the effective date of the termination. To be reinstated, an institution shall:

(1) Demonstrate to the President and Chief Executive Officer's satisfaction that it has corrected the violations on which termination was based and repaid funds which it had improperly received.

(2) Meet the requirements for participation in the Federal Stafford Loan and Federal PLUS Loan Programs.

(3) Enter into a new participation agreement with the Agency.

**Authority**

The provisions of this § 121.31 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.31 adopted February 27, 1969; amended June 2, 1978, effective June 3, 1978, 8 Pa.B. 1532; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161808) to (161810).

**Cross References**

This section cited in 22 Pa. Code § 121.1 (relating to definitions).

**§ 121.32. Approved institution in higher education grant program.**

(a) To be eligible for a State higher education grant, an applicant shall enroll in a program approved under § 121.33 (relating to approved program of study in higher education grant program) and shall attend an institution of higher education approved by the Agency for enrollment of grant recipients under the State Higher Education Grant Program

(b) To be approved, an institution shall be other than a school of theology or a theological seminary as determined by the Agency, be located in the United States or any of its territories and comply with the following:

(1) If the institution is a college or university located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education and shall be accredited or a recognized candidate for accreditation with an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors; if the college or university is located outside this Commonwealth, the institution shall be degree-granting, shall be operated not-for-profit, shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and shall be fully accredited by an accrediting body recognized by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the college or university is conducting its educational program.

(2) If the institution is a hospital school of nursing located within this Commonwealth, the institution shall be initially, provisionally or fully approved by the Pennsylvania State Board of Nursing and shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or other accrediting body recognized by the

United States Department of Education for the accreditation of nursing schools; if located outside this Commonwealth, the institution shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or any other accrediting body recognized by the United States Department of Education for the accreditation of nursing schools.

(3) If the institution is a trade, technical or business school located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education or shall currently be, and shall have been throughout the preceding 24 months, licensed by the Pennsylvania State Board of Private Licensed Schools and shall be accredited by an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors, except that this requirement for licensure and accreditation may be waived by the President and Chief Executive Officer for branch campuses of an institution that have been operating satisfactorily in this Commonwealth for 2 years or more; if the institution is located outside this Commonwealth, it shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the institution is conducting its educational program.

(4) The institution shall have executed an Assurance of Compliance with section 602 of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000d-1 (1974)) and filed it with the United States Secretary of Education.

(5) The institution shall have executed and filed with the Agency an agreement on a form provided by the Agency to report or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients of Agency-administered aid who have been convicted in a court of record of a criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution or facts known to persons occupying positions of authority such as the dean of students, director of financial aid or president of the institution.

(6) When a change in ownership of an approved institution occurs, the new owner shall notify the Agency in writing of the change in ownership within 30 days of the effective date of the change. The new owner shall execute and file with the Agency an agreement on a form provided by the Agency to assume responsibility for repayment of State grant funds to the Agency or payment of State grant funds to eligible students, as designated by the Agency, made necessary by the failure of the previous owner to follow Agency procedures and

requirements. An institution that fails to execute this agreement will be required to wait 24 months before being considered for approval in the State Grant Program.

(7) The institution shall comply with other administrative requirements as the Agency may legally promulgate, as shall be set forth in the State Grant Certification Procedures and the State Grant Program Policy Manual which will be made available to institutions on an annual basis.

(c) Approved institutions for an academic year shall be those on record as of the preceding August 1 for the ensuing academic year.

(d) Approval of an institution after August 1 will become effective the following August 1 with two exceptions:

(1) To be effective for the ensuing summer term, approval shall be obtained prior to May 1.

(2) In the light of the particular circumstances related to the institution's approval and the funding and application processing conditions of the Agency, the President and Chief Executive Officer may make the approval effective on a date prior to August 1.

(e) The President and Chief Executive Officer may suspend the processing of aid request forms of State grant applicants or cease further disbursement of State grant funds to an approved institution, or both, when, in the judgment of the President and Chief Executive Officer, the institution's compliance with the conditions required for approval or the institution's continued eligibility or operation is in question and the action is deemed necessary to protect the interests of the student aid applicants, the Commonwealth or the Agency. This subsection may also be invoked upon a change in ownership, administration or directorship of the institution.

(f) An institution's approved status may be terminated by the President and Chief Executive Officer when any of the conditions required for approval cease to be met.

(g) In suspending or withdrawing the approval of an institution, the President and Chief Executive Officer may authorize continuation of eligibility determination and grant disbursement for State grant renewal applicants.

#### **Authority**

The provisions of this § 121.32 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

#### **Source**

The provisions of this § 121.32 adopted November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3195; amended June 2, 1978, effective June 3, 1978, 8 Pa.B. 1532; amended June 7, 1985, effective June 8, 1985, 15 Pa.B.

2102; amended November 1, 1985, effective November 2, 1985, 15 Pa.B. 3933; amended September 4, 1987, effective September 5, 1987, 17 Pa.B. 3600; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268167) to (268168) and (269161).

#### Cross References

This section cited in 22 Pa. Code § 121.33 (relating to approved program of study in higher education grant program); and 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

### § 121.33. Approved program of study in higher education grant program.

To be eligible for a State higher education grant, an applicant shall enroll in a program of study approved by the Agency and offered by an institution approved by the Agency under § 121.32 (relating to approved institution in higher education grant program) for participation in the State Higher Education Grant Program. An approved program of study shall comply with the following:

- (1) An approved program of study shall be a program of instruction of at least 2 academic years which shall be the equivalent of at least 60 semester credit hours or at least 1,800 clock hours of instruction (1,500 clock hours in the case of programs leading to the associate degree in specialized technology or the associate degree in specialized business offered by institutions of higher education located within this Commonwealth) except that, other than for those community college programs which are measured in credit hours, programs not leading to a degree shall be measured in clock hours, with at least 30 semester credit hours or 900 clock hours earned through instruction within the classroom, and shall be presented over a calendar of at least 15 months.
- (2) An approved program of study shall require that at least 50% of the credits needed for completion of the program at the approved institution be earned through instruction within the classroom.
- (3) If offered at a trade, technical or business school located within this Commonwealth, an approved program of study shall be approved by the Pennsylvania Department of Education or by the Pennsylvania State Board of Private Licensed Schools.
- (4) An approved program of study shall be on the approved list as of August 1 for the ensuing academic year. Approval after August 1 will become effective the following August 1 with two exceptions:
  - (i) To be effective for the ensuing summer term, approval must be obtained prior to May 1.
  - (ii) In the light of the particular circumstances related to the approval of the program of study and the funding and application processing conditions of the Agency, the President and Chief Executive Officer may make the approval effective on a date prior to August 1.

**Authority**

The provisions of this § 121.33 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); section 1 of the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and section 1 of the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.33 adopted March 24, 1972, effective March 25, 1972, 2 Pa.B. 506; amended August 22, 1975, effective August 23, 1975, 5 Pa.B. 2189; amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3195; amended March 31, 1978, effective April 1, 1978, 8 Pa.B. 832; amended March 30, 1979, effective March 31, 1979, 9 Pa.B. 1128; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 975; amended June 7, 1985, effective June 8, 1985, 15 Pa.B. 2102; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2428; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (269161) to (269162).

**Cross References**

This section cited in 22 Pa. Code § 121.32 (relating to approved institutions in higher education grant program); and 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.34. Institutional appeals and hearings (for other than the Federal Family Education Loan Programs).**

(a) If the President and Chief Executive Officer suspends the processing of student aid request forms for students at an approved institution or ceases disbursement of funds to an approved institution, the institution will be notified in writing of the action and the grounds therefor and will be afforded an opportunity to contend to the Agency that the processing of aid request forms or disbursement of funds should be resumed and to submit relevant data in support of this contention.

(b) If the President and Chief Executive Officer of the Agency determines that an institution is not an eligible institution within the meaning of this chapter for a program administered by the Agency, the institution will be notified in writing of the determination, the grounds therefor and its right to appeal from the decision.

(c) An institution which is aggrieved by the determination of the President and Chief Executive Officer that it is not an eligible institution may file an appeal of that determination to the Board. This subsection supersedes 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).



(d) An appeal shall be filed on or before the 15th day after the date on which notification of the determination by which the institution was aggrieved was mailed to it at its post office address registered with the Agency.

(e) The appeal may be heard by the Board or, at its direction, by a hearing examiner appointed by the Chairperson of the Board or, in the event of the unavailability of the Chairperson, by the Vice Chairperson of the Board, from a list maintained by the President and Chief Executive Officer. The hearing examiner or the Board will schedule the appeal for hearing within 30 days from the date on which the appeal is filed and will give the institution at least 7 days' notice of the hearing. The notice will specify the date, hour and place of hearing.

(f) Hearings will be held at the offices of the Agency in Harrisburg, Pennsylvania. During the hearing, the institution will be given the opportunity to submit relevant evidence in support of its contentions. The institution shall also have the right to present oral and written argument and to cross-examine witnesses which are offered by the Agency. This subsection supplements 1 Pa. Code § 35.126 (relating to presentation by the parties).

(g) The hearing examiner or the Board will prepare or cause the preparation of a verbatim transcript of the hearing. When the appeal is heard by a hearing examiner, findings of fact and conclusions of law shall also be prepared, and the transcript, findings and conclusions shall be forwarded directly to the Board for review and a final decision by the Board. This subsection supplements 1 Pa. Code § 35.131 (relating to recording of proceedings) and supersedes 1 Pa. Code § 35.202 (relating to proceedings in which proposed reports are prepared).

(h) The Board will make an order or determination as shall appear just and proper from all the evidence submitted. Notice of the decision of the Board will be mailed promptly to the institution at the post office address which is registered with the Agency.

(i) The decision of the Board will become final 10 days after the date thereof. Within 30 days after the decision of the Board becomes final, the institution may file an appeal therefrom with Commonwealth Court.

#### Authority

The provisions of this § 121.34 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); and sections 3 and 4(1.2) of the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.34 adopted October 28, 1977, effective October 29, 1977, 7 Pa.B. 3195; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended February 22, 1985, effective February 23, 1985, 15 Pa.B. 670; amended October 16, 1987, effective October 17, 1987,

17 Pa.B. 4120; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161814) to (161816).

#### Cross References

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

### § 121.35. Payment of interest on Federal Stafford Loans and Federal PLUS Loans.

(a) The Agency will require an educational institution to repay to the appropriate lending institution the interest that has accrued on Federal Stafford Loan or Federal PLUS Loan funds under the following circumstances:

(1) A borrower receives loan assistance for which he is not eligible because of the educational institution's negligent or willful false certification of a student's loan eligibility.

(2) If the educational institution violates State or Federal regulations in its release of Federal Stafford Loan or Federal PLUS Loan funds to a borrower.

(3) If the educational institution is required to make a loan refund as specified in Federal regulations and does not make the refund within the time frame specified in the regulations.

(b) The interest amount that the Agency will require to be repaid under the circumstances described in subsection (a) will be based on the maximum interest rate allowed under Federal law governing the particular loan and will be calculated over the following time periods:

(1) For the condition described in subsection (a)(1), from the date of disbursement of the loan funds until the date the ineligible principal portion is repaid.

(2) For the condition described in subsection (a)(2), from the date of release of the loan funds until the date the principal portion of the loan funds in question is repaid.

(3) For the condition described in subsection (a)(3), from the latest date, as specified in Federal regulations, that a refund should have been made until the date the refund actually is made.

(c) Educational institutions required to pay interest will receive written notice as to the reason the interest is owed and the amount to be remitted to the Agency. The educational institution will have a maximum of 60 days from the date of the written notice to respond to the Agency.

(d) Failure of the educational institution to respond to the notice specified in subsection (c) or to repay the particular interest amount requested will lead the Agency to refer the case to the United States Secretary of Education for further enforcement action.

**Authority**

The provisions of this § 121.35 issued under section 4 of the act of August 7, 1963 (P.L. 549, No. 290) (24 P.S. § 5104); amended under section 4 of the act of August 7, 1963 (P.L. 549, No. 290) (24 P.S. § 5104); section 1 of the act of January 25, 1966 (P.L. 1546, No. 541) (24 P.S. § 5151); the act of July 18, 1974 (P.L. 483, No. 174) (24 P.S. §§ 5181—5189); the act of July 1, 1988 (P.L. 1259, No. 155) (24 P.S. §§ 5191—5197); and the act of June 26, 1992 (P.L. 322, No. 64) (24 P.S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.35 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161816) to (161817).

**Subchapter B. HIGHER EDUCATION GRANT PROGRAM**

- Sec.
- 121.41. Grouping of applicants.
  - 121.42. Submission of applications.
  - 121.43. Processing applications.
  - 121.44. Required family financial data.
  - 121.45. Amount of higher education grant.
  - 121.46. Determination of financial need.
  - 121.47. State Higher Education Grant Program Manual.
  - 121.48. Limitation on payment of grants.
  - 121.49. Duration of State higher education grants.
  - 121.50. Disbursement of State higher education grants.
  - 121.51. Refund of State higher education grants.
  - 121.52. Transferring an award.
  - 121.53. Forfeiture of award.
  - 121.54. Deferment of award.
  - 121.55. Recipients on probation.
  - 121.56. Year Abroad Program.
  - 121.57. Higher education grant domicile.
  - 121.58. Academic progress.
  - 121.59. Error rate policy.

**Cross References**

This subchapter cited in 22 Pa. Code § 121.111 (relating to application of existing Agency regulations); 22 Pa. Code § 121.121 (relating to application of existing Agency regulations); 22 Pa. Code § 121.151 (relating to application of existing Agency regulations); 22 Pa. Code § 121.201 (relating to application of existing Agency regulations); and 22 Pa. Code § 121.302 (relating to application of existing Agency regulations).

**§ 121.41. Grouping of applicants.**

Higher education grant applicants shall be grouped into the following categories:

(1) *Group I.* A roster of the top 5,000 prospective freshmen applicants—without breaking ties—listed in descending order by composite score on college entrance examinations.

(2) *Group IIA.* A roster of remaining prefreshmen applicants planning to enroll in degree institutions other than those enrolled in nontransferable Community College Programs.

(3) *Group IIB.* A roster of all prospective freshmen applicants planning to enroll in a nondegree-granting institution or an approved nondegree course of study in a degree-granting institution.

(4) *Group III.* A roster of all high school graduates who have a lapse of 1 year between their high school graduation date and the date of their planned enrollment in a degree-granting institution, all students enrolled or accepted for enrollment as other than first year students in a degree-granting institution, and all early admission students.

(5) *Renewals.* A roster of all students previously awarded State higher education grants who maintain eligibility.

#### Authority

The provisions of this § 121.41 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171).

#### Source

The provisions of this § 121.41 adopted February 27, 1969; amend November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268174).

#### Cross References

This section cited in 22 Pa. Code § 121.42 (relating to submission of applications).

### § 121.42. Submission of applications.

(a) Applications will be considered only if submitted on or prior to the deadline date announced by the Agency for each group specified in § 121.41 (relating to grouping of applicants). Applications will be accepted after the established deadline, funds permitting, when received from applicants in the following categories, except applicants who have been supplied with an application by the Agency in sufficient time to have had a reasonable opportunity to submit the application to the Agency prior to the deadline:

(1) Veterans and current and former members of the Peace Corps, VISTA, and other similar organizations.

(2) Applicants who have suffered a loss in expected family assistance through the death, disability or retirement of a major wage earner of the family.

(3) Applicants who have suffered a loss in expected family assistance through a major wage earner's separation—as defined by the Agency—or divorce, or through a change in the employment status of a major wage earner of the family.

(b) If, in the case of applications accepted from students included in the categories mentioned in subsection (a), the release from active duty, death, disability, retirement, change of employment status, separation or divorce, as the case may be, occurred on or after January 1 immediately preceding the start of the academic year for which aid is requested, the applications will be processed, funds permitting, in accordance with the following schedule:

(1) *Quarter schedule institutions.* Applications from students attending institutions with quarter schedules will be considered in accordance with the following dates of reception:

- (i) Received prior to February 1—full-year consideration.
- (ii) Received on or after February 1 and prior to April 1—two-term consideration.
- (iii) Received on or after April 1—no consideration for the current academic year.

(2) *Semester schedule institutions.* Applications from students attending institutions with semester schedules will be considered in accordance with the following dates of reception:

- (i) Received prior to February 1—full-year consideration.
- (ii) Received on or after February 1 and prior to April 1—one-semester consideration.
- (iii) Received on or after April 1—no consideration for the current academic year.

(c) Applications which are accepted from students included in the categories mentioned in subsection (a), but not eligible under the terms of subsection (b) will, funds permitting, be processed, after consideration of those applicants designated in subsection (b), for the term or terms designated by the Agency.

(d) The President and Chief Executive Officer may authorize the setting aside of deadlines for other categories of applicants when in the judgment of the President and Chief Executive Officer the setting aside of the deadline will facilitate administration of the State Higher Education Grant Program in accordance with the policies established by the Board of the Agency and will promote equitable program results. Any determination made by the President and Chief Executive Officer under this subsection will be reduced to writing, which writing will delimit the category and give an estimate of the number of applicants for the particular processing year which is expected to fall within the category. A copy of this writing will be furnished to each member of the Board of the Agency.

(e) Exceptional cases involving applicants who submit an application after the established deadline will be reviewed and appropriate resolution of the ques-

tion relating to setting aside the deadline and the term of eligibility will be taken by the Administrative Review Committee or the Committee on Appeals in turn.

**Authority**

The provisions of this § 121.42 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.42 adopted February 27, 1969; amended December 8, 1972, effective December 9, 1972, 2 Pa.B. 2296; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended May 9, 1975, effective May 10, 1975, 5 Pa.B. 1210; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 2907; amended November 19, 1976, effective November 20, 1976, 6 Pa.B. 2907; amended through June 7, 1985, effective June 8, 1985, 15 Pa.B. 2102; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924. Immediately preceding text appears at serial pages (218147) to (218148).

**§ 121.43. Processing applications.**

Upon receipt of an application and the required family financial data as specified in § 121.44 (relating to required family financial data), the Agency will review the application form for completeness. Where the form is found to be incomplete, additional data will be requested and final processing of the application will be discontinued until all requested data is supplied by the applicant or his parents or guardian. The Agency may terminate the processing of an incomplete application when the additional data is not supplied to the Agency after two written requests.

**Authority**

The provisions of this § 121.43 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171).

**Source**

The provisions of this § 121.43 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719. Immediately preceding text appears at serial page (3242).

**§ 121.44. Required family financial data.**

(a) *General.* The applicant, the applicant's parents and stepparents, and the applicant's spouse shall submit financial data that the Agency requests and, further, shall be required to authorize the Director of the State Personal Income Tax Bureau and the District Director of the Internal Revenue Service to release to the Agency, upon request of the Agency, a copy or extract of the State or Federal Income Tax Return filed by the applicant, the applicant's parents and stepparents, and the applicant's spouse for the tax years the Agency designates. The Agency may in addition require the applicant, the applicant's parents and stepparents, and the applicant's spouse to submit a copy of the tax returns directly to the Agency.

(b) *Exceptions.* The Agency may determine the eligibility of the applicant without regard to the parents' financial data, waiving its submission, in the following cases:

(1) If the applicant is a veteran as defined in § 121.1 (relating to definitions).

(2) If the applicant is in compliance with other criteria established by the Agency for the processing of applicants without regard to parental financial data which generally are the United States Department of Education criteria for financial independence for Title IV Federal student aid programs.

(3) Other exceptions may be granted by the Administrative Review Committee or the Committee on Appeals in turn on an individual case basis.

(c) *Severe casualty losses.* If, as a result of fire, storm or other casualty, the family of a higher education grant applicant has suffered severe losses not fully covered by insurance, the post-loss value of assets normally taxed in the eligibility determination may be used in processing the application to reflect the family's reduced ability to finance educational costs. If the family's loss is covered by insurance (whether fully or partially), the Agency, in processing the application, may elect to use either the preloss value of the assets or the insurance benefits received because of the loss. If the loss is not fully covered by insurance, the Agency may also elect to subtract from family income the amount of the casualty losses not covered by insurance, to waive the normal application filing deadline and to afford other special treatment of the application that may be merited.

#### Authority

The provisions of this § 121.44 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.44 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended July 25, 1980, effective July 26, 1980, 10 Pa.B. 3091; amended July 25, 1980, effective July 26, 1980, 10 Pa.B. 3091; amended September 4, 1987, effective September 5, 1987, 17 Pa.B. 3600; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268177) to (268178).

#### Cross References

This section cited in 22 Pa. Code § 121.43 (relating to processing applications).

**§ 121.45. Amount of higher education grant awards.**

The amount of the higher education grant to an applicant will be determined on the basis of the financial need of the applicant, the funds available for higher education grants, and the number of eligible applicants for higher education grants.

**Authority**

The provisions of this § 121.45 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171).

**Source**

The provisions of this § 121.45 adopted February 27, 1969; amended December 15, 1969; amended October 10, 1972, effective October 11, 1972, 2 Pa.B. 2157; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719. Immediately preceding text appears at serial pages (3242) to (3243).

**§ 121.46. Determination of financial need.**

(a) Financial need of applicants will be determined according to the need analysis procedures established annually by the Agency.

(b) Financial need will be computed as the arithmetical difference between the Agency-approved educational costs of the institution or program in which the applicant is enrolled or intends to enroll and the total resources computed by the Agency to be available to the applicant.

**Authority**

The provisions of this § 121.46 amended under the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171).

**Source**

The provisions of this § 121.46 adopted February 27, 1969; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699. Immediately preceding text appears at serial page (14026).

**§ 121.47. State Higher Education Grant Program Manual.**

(a) The Agency will publish annually a State Higher Education Grant Program Manual containing:

(1) Current financial need analysis procedures established by the Agency.

(2) A list of approved colleges, universities and hospital schools of nursing in this Commonwealth.

(3) A list of approved programs of study offered by approved trade, technical and business schools in this Commonwealth.

(4) A list of approved institutions of higher learning outside of this Commonwealth.

(5) When applicable, a list of approved programs of study offered by institutions of higher learning outside of this Commonwealth.

(6) A list of accrediting agencies (bodies) recognized by the Agency for the State Higher Education Grant Program.

(b) The State Higher Education Grant Program Manual will be available on the Agency's web site.



**Authority**

The provisions of this § 121.47 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171).

**Source**

The provisions of this § 121.47 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial pages (268178) to (268179).

**§ 121.48. Limitation on payment of grants.**

The Agency will not make payment of, or further payment on, an existing State higher education grant on the basis of an inquiry or request received after August 1 of the calendar year immediately following the academic year for which the payment is sought unless the President and Chief Executive Officer specifically directs that payment be made to prevent grave hardship.

**Authority**

The provisions of this § 121.48 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.48 adopted February 27, 1969; reserved February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; added August 22, 1975, effective August 23, 1975, 5 Pa.B. 2189; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268179).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.49. Duration of State higher education grants.**

(a) State higher education grants are awarded for undergraduate school study and student eligibility shall terminate with the receipt of the baccalaureate degree or 4 undergraduate academic year State higher education grants, whichever occurs first, except as provided in subsections (b)—(d).

(b) In the case of students enrolled in Agency-approved bona fide 5-year programs of study in approved institutions, student eligibility shall terminate with the receipt of the baccalaureate degree or 5 academic year State higher education grants, whichever occurs first.

(c) In the case of students enrolled in Agency-approved 5-year work study programs in approved institutions, student eligibility shall terminate with the

receipt of the baccalaureate degree or 5 academic year State higher education grants, whichever occurs first. However, the total higher education grant funds awarded during 5 years will not exceed the amount to which the student would have been entitled as determined by the Agency had his educational program been completed in a period of 4 years.

(d) State higher education grant eligibility for undergraduate students enrolled in other than baccalaureate degree programs shall terminate with the receipt of 4 academic year State higher education grants or with the end of the normal course of study, whichever occurs first.

#### Authority

The provisions of this § 121.49 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.49 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective November 28, 1974, 4 Pa.B. 2699; amended August 22, 1975, effective August 23, 1975, 5 Pa.B. 2189; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161823) to (161824).

#### Cross References

This section cited in 22 Pa. Code § 121.50 (relating to disbursement of State Higher Education grants); and 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

### § 121.50. Disbursement of State higher education grants.

(a) Payments on behalf of students of their State higher education grants to institutions on a semester or trimester calendar shall be made twice during the academic year in an amount equal to 1/2 of the annual grant. Similar payments to institutions on a quarter calendar shall be made three times during the academic year in an amount equal to 1/3 of the annual grant. Grants shall be sent to the appropriate institution to the credit of the account of the recipient for payment of tuition, room, board, books or institutional fees. Payments may be made to the recipients when the Agency deems the action necessary to protect the interests of the students, the Commonwealth or the Agency.

(b) Students who accelerate their academic progress by reason of attendance in a year-round program of study shall be eligible to receive additional payments of their State higher education grant but in no event may the payments result in violation of § 121.49 (relating to duration of State higher education grants).

**Authority**

The provisions of this § 121.50 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.50 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended June 7, 1985, effective June 8, 1985, 15 Pa.B. 2102; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161824).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.51. Refund of State higher education grants.**

(a) Whenever a recipient withdraws, is expelled, is suspended, or otherwise fails to successfully complete a term, refund of any payment on the recipient's State higher education grant shall be made to the Agency in accordance with the normal refund procedure of the institution.

(b) Unless otherwise directed by the Agency, all overpayments and refunds of State higher education grants shall be returned to the Agency by the institution within 30 days of the receipt of notice from the Agency, or determination by the institution, that such repayment is due, whichever occurs first.

(c) An institution that fails to return overpayments and refunds in accordance with the provisions of subsection (b) shall be subject to a reasonable interest charge calculated on the amount of the overpayment or refund. The charge shall be based on the 90-day Treasury Bill rate as of June 1 of the academic year plus 3.0% or as otherwise set by the Agency to ensure that institutions do not realize a financial benefit in retaining refunds.

**Authority**

The provisions of this § 121.51 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151).

**Source**

The provisions of this § 121.51 adopted February 27, 1969; amended August 22, 1975, effective August 23, 1975, 5 Pa.B. 2189; amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3195; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120. Immediately preceding text appears at serial page (98951).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.52. Transferring an award.**

A recipient may not transfer his award to a nonapproved institution or course of study.

**Authority**

The provisions of this § 121.52 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); and the Institutional Assistance Grants Act (24 P. S. §§ 5181—5190).

**Source**

The provisions of this § 121.52 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268182).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.53. Forfeiture of award.**

(a) A recipient who fails to enroll in a term of the academic year for which the award was granted must request a deferment from the Agency. Where a request for deferment is received from the student subsequent to the Agency's cancellation for nonenrollment as reported by the school or college on the higher education grant disbursement roster, the cancelled portion of the student's award shall not be reinstated except, funds permitting, at the discretion of the staff.

(b) Students with awards cancelled under this section shall be entitled to review of such cancellation under §§ 121.7 and 121.8 (relating to notice of denial and preliminary review procedures; and applicant and recipient appeals and hearings) in accordance with the procedure for review and appeals.

**Authority**

The provisions of this § 121.53 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 2 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5152); the act of October 29, 1969 (P. L. 283, No. 116); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); and the act of October 18, 1972 (No. 233).

**Source**

The provisions of this § 121.53 adopted February 27, 1969; amended September 1, 1972, effective September 2, 1972, 2 Pa.B. 1647; amended February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719. Immediately preceding text appears at serial page (3245).

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.54. Deferment of award.**

The Agency may approve a request for deferment of an award for one academic term at a time. An award may not be deferred beyond July 1 of any year.

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.55. Recipients on probation.**

A recipient on academic or disciplinary probation shall remain eligible for a higher education grant if the institution of higher learning permits him to continue his studies on at least a half-time basis and he is making satisfactory academic progress as required under § 121.58 (relating to academic progress).

**Authority**

The provisions of this § 121.55 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.54 adopted February 27, 1969; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (268183).

**§ 121.56. Year abroad program.**

A recipient shall be eligible to receive an award for a Year Abroad Program which shall provide the recipient with equivalent credit for the academic terms involved in the program as the recipient would earn at the approved institution of higher learning and which requires the recipient to pay the educational costs to the institution. Exceptions to the requirement that educational costs be paid to the approved institution may be made by the President and Chief Executive Officer.

**Authority**

The provisions of this § 121.56 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); and the act of October 11, 1972 (P. L. 909, No. 216); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.56 adopted February 27, 1969; amended March 30, 1979, effective March 31, 1979, 9 Pa.B. 1128; amended August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924. Immediately preceding text appears at serial page (218155).

121-44.1

(377753) No. 491 Oct. 15

**Cross References**

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

**§ 121.57. Higher education grant domicile.**

(a) A student applicant who is under 18 years of age at the time he makes application for a State higher education grant or to renew a higher education grant shall have a supporting parent or guardian who has been a bona fide domiciliary of this Commonwealth for at least 12 months immediately preceding the date of receipt by the Agency of the higher education grant or renewal application.

(b) A student applicant who is 18 years of age or older at the time he makes application for a State higher education grant or to renew such award shall have been a bona fide domiciliary of this Commonwealth for at least 12 months immediately preceding the date of receipt by the Agency of the higher education grant or renewal application.

(c) Any period of time during which an applicant is enrolled as a student in an educational institution may not be counted as a part of the 12-month domicile requirement when the student came into the Commonwealth or remained in the Commonwealth for the purpose of attending a school or college.

(d) For the purposes of determining domicile, a guardian shall be a person or persons appointed by a court or any person or persons other than a parent with whom the applicant has lived and in whose continuous direct care and control the applicant has been for a period of not less than 2 years.

(e) In view of the fact that Commonwealth domiciliaries attending approved institutions of higher learning located outside the Commonwealth may exercise their right of franchise by absentee ballot, a student who registers to vote in a state other than the Commonwealth shall be deemed to have abandoned his domicile in this Commonwealth and shall be ineligible for consideration for a State higher education grant or renewal thereof or any further payments thereon unless and until such student registers to vote in the Commonwealth.

(f) Military status of persons and their dependents who reside in the civilian community rather than on a military installation shall not alone be grounds for determining an applicant ineligible.

(g) Persons and their dependents who leave this Commonwealth on military or foreign assignments, such as missionaries, United States military servicemen, and representatives of domestic companies or government agencies, will be presumed to maintain their domicile in this Commonwealth for purposes of satisfying the higher education grant domicile requirement.

(h) If an applicant's parents or guardian moves from this Commonwealth after the date of receipt by the Agency of the applicant's application for a higher education grant or to renew a higher education grant, but prior to the first day of classes of the academic year for which aid is requested, the applicant's higher education grant eligibility shall terminate as of the date the parents or guardian

moved from this Commonwealth. This restriction shall not apply if the applicant is 18 years of age or older on the date the applicant makes application for a higher education grant or to renew a higher education grant, provided that the applicant continues to maintain his domicile in this Commonwealth as determined by the Agency through such tests as it deems proper.

(i) If a higher education grant recipient's parents or guardian move from this Commonwealth during the academic year, the recipient's eligibility for a higher education grant shall terminate at the end of that academic year. This restriction shall not apply if the applicant is 18 years of age or older on the date the application grant, provided that the applicant continues to maintain his domicile in this Commonwealth as determined by the Agency through such tests as it deems proper.

(j) A student receiving, on the ground of residency, the benefit of in-State fees at an institution of higher education located in another state shall for Agency higher education grant purposes be considered a domiciliary of that state.

(k) A student receiving a state scholarship or grant from another state shall, for higher education grant purposes, be considered a domiciliary of that state.

(l) The Agency will make the final decision in all matters pertaining to domicile.

#### Source

The provisions of this § 121.57 adopted February 27, 1969; amended February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2722; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874. Immediately preceding text appears at serial page (30611).

#### Cross References

This section cited in 22 Pa. Code § 121.151 (relating to application of existing Agency regulations).

### § 121.58. Academic progress.

(a) A higher education grant recipient must make normal academic progress, as defined in the State Higher Education Grant Program Manual, from year to year to retain higher education grant eligibility.

(b) The Agency will make the final decision in all matters pertaining to academic progress.

#### Authority

The provisions of this § 121.58 amended under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); sections 1 and 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151 and 5156(e)); the act of October 29, 1969 (P. L. 283, No. 116); the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161); the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); and the act of October 18, 1972 (No. 233).

121-44.3

(377755) No. 491 Oct. 15

**Source**

The provisions of this § 121.58 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended July 31, 2015, effective August 1, 2015, 45 Pa.B. 4163. Immediately preceding text appears at serial page (218157).

**Cross References**

This section cited in 22 Pa. Code § 121.55 (relating to recipients on probation).

**§ 121.59. Error rate policy.**

(a) The staff of the Agency will extract a random sample of all accounts at an institution that is undergoing a review of its program administration. Institutions will then be categorized according to their error rate in administration of State grants as follows:

(1) *Error rate of 4.0% or less.* This is an acceptable rate signifying that the institution is complying with PHEAA grant program guidelines. It will be assumed that the discrepancies found had been caused by a misinterpretation of the guidelines or by a mistake on the part of the financial aid officer or staff of the institution. No further action will be required other than a letter to the institution identifying the discrepancies and requesting a refund of those awards for ineligible higher education grant recipients identified in the sample.

(2) *Error rate of 4.1%—8.9%.* This rate indicates repeated failure to comply with certain program guidelines or that somewhat general discrepancies exist within the internal control of the institution as it applies to financial aid. The Agency will request a refund on behalf of those ineligible higher education grant recipients identified in the sample. A letter will be sent to the institution pointing out the problems and recommending necessary action to be taken by the institution with the stipulation that within 12 to 18 months a followup review will be conducted, at which point in time the calculated error rate is expected to be within the acceptable range. If, at this time, the error rate is not acceptable, a decision will be made regarding whether or not the institution shall continue to receive grant disbursements and as to whether or not a review based on a valid statistical sample is required.

(3) *Error rate of 9% or more.* This rate indicates that serious weaknesses or the possibility of fraud exists within the institution's administration of the program. The Agency will schedule a program followup to be conducted at the earliest possible date. All disbursements to the institution may be withheld pending the results of the follow-up review. The followup review will be based on a valid statistical sample which will be prepared by the Agency. This valid statistical sample will identify the accounts to be evaluated in the follow-up review. The Agency will request a refund for those higher education grant recipients identified as refund cases during the initial and follow-up reviews and make a determination as to the continued eligibility of the institution for PHEAA's programs of student financial assistance.



(b) The Agency may conduct further examinations of student aid and related records as it deems necessary to protect the financial interests of the Agency or its student aid recipients.

**Authority**

The provisions of this § 121.59 issued under the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of October 11, 1972 (P. L. 909, No. 216) (24 P. S. § 5171); and the act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. § 5161).

**Source**

The provisions of this § 121.59 adopted August 29, 1980, effective August 30, 1980, 10 Pa.B. 3510.

**Subchapter C. FEDERAL STAFFORD LOAN PROGRAMS**

Sec.

- 121.61. Submission and processing of applications.
- 121.62. Lender eligibility.
- 121.63. [Reserved].
- 121.64. Loan insurance premium.
- 121.65. Federal Stafford Loan guaranty limits.
- 121.66. [Reserved].
- 121.67. Repayment.
- 121.68. Borrowers on probation.
- 121.69. Cancelled debt.
- 121.70. Default.



121.71. Year Abroad Program.

121.72. Loan residency.

### § 121.61. Submission and processing of applications.

(a) *Applicant.* A student desiring to secure a Federal Stafford Loan shall obtain from a participating lender, a participating school or Agency a loan application packet containing the application/promissory note form for the Federal Stafford Loan Program. The information provided on the form will be used to determine the eligibility of the applicant to receive a Federal Stafford Loan. The applicant shall complete the loan application, which includes the affidavit in which the applicant agrees to use the loan proceeds solely for educational expenses. The applicant shall also read, sign and date the promissory note that is part of the loan application form. After completing the loan application, including the promissory note, the applicant shall retain a copy of the form and forward the remaining copies of these forms as referenced on the form.

(b) *Educational institution.* The institution shall certify the loan application according to instructions provided by the Agency.

(c) *Processing by the Agency.* The Agency will check the application/promissory note form for completeness. If not complete, the Agency will obtain from the applicant the missing data items.

(d) *Completion of processing.* Upon receipt of missing information, the Agency will complete the processing of the loan application and determine the amount of loan assistance the applicant is entitled to obtain. The Agency will then inform the lender of the amount of the guaranty by sending the lender a Loan Guaranty Notice and Disclosure Statement.

(e) *Action by lender.* The lender shall provide the applicant with a copy of the Loan Guaranty Notice and Disclosure Statement and disburse the funds by means of a check or electronic funds transfer. If the lender does not wish to make the loan, the lender shall mark denied on the Loan Guaranty Notice and Disclosure Statement or report the denial by the computer terminal. An adverse action notice shall be provided to the borrower by the lender if loan assistance is denied.

#### Authority

The provisions of this § 121.61 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.61 adopted February 27, 1969; amended November 19, 1976, effective November 20, 1976, 6 Pa.B. 2907; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended June 19, 1981, effective July 1, 1981, 11 Pa.B. 2117; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 250;

amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161831) to (161832).

### § 121.62. Lender eligibility.

A bank, Federal or State savings and loan association, mutual savings bank, Federal or State credit union or other lender, approved by the United States Secretary of Education and by the Agency which executes a Lender Participation Agreement with the Agency shall become an eligible lender.

#### Authority

The provisions of this § 121.62 issued under act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)).

#### Source

The provisions of this § 121.62 adopted February 27, 1969; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended June 7, 1985, effective June 8, 1985, 15 Pa.B. 2102. Immediately preceding text appears at serial pages (69456) and (92203).

### § 121.63. [Reserved].

#### Source

The provisions of this § 121.63 adopted February 27, 1969; amended September 4, 1981, effective September 5, 1981, 11 Pa.B. 3045; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4633. Immediately preceding text appears at serial page (128121).

### § 121.64. Loan insurance premium.

A student borrower shall, at the option of the Agency, pay to the lender, at the time the student borrower obtains the loan, a loan insurance premium calculated as a percentage of the loan guaranty amount. The percentage used may not exceed the rate mandated by Federal law and regulations.

#### Authority

The provisions of this § 121.64 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104).

#### Source

The provisions of this § 121.64 amended July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208. Immediately preceding text appears at serial page (121682).

### § 121.65. Federal Stafford Loan guaranty limits.

The Agency will guarantee loans to the maximum amounts specified in the following table:

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	<i>Subsidized/ Unsubsidized Loan</i>	<i>Additional Unsubsidized Eligibility for Independent Students*</i>
Annual Loan Limits:		
1st Year Undergraduate:		
Full academic year	\$2,625	\$4,000
2/3 academic year	\$1,750	\$2,500
1/3 academic year	\$ 875	\$1,500
2nd Year Undergraduate:		
Full academic year	\$3,500	\$4,000
2/3 academic year	Prorated**	\$2,500
1/3 academic year	Prorated**	\$1,500
3rd Year, 4th Year or 5th Year Undergraduate:		
Full academic year	\$5,500	\$5,000
Less than full academic year	Prorated**	Prorated**
Graduate/Professional Student	\$8,500	\$10,000
Aggregate Limits:		
Undergraduate	\$46,000	
Graduate/Professional	\$138,500 (includes borrowings at the undergraduate level)	

\* Or dependent students whose parents cannot borrow a Federal PLUS loan. The amount an independent student or eligible dependent student can borrow under the unsubsidized Federal Stafford Loan Program during an academic year is: (a) the amount indicated in the first column minus the subsidized loan amount for which the student is eligible, plus (b) the amount indicated in the second column.

\*\*Straight proration applies if the final portion of the program of study is less than a full academic year. The prorated loan amount must bear the same ratio to the full-academic year loan amount as the remainder of the program bears to 1 academic year.

#### Authority

The provisions of this § 121.65 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); sections 3 and 4 of the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.65 adopted February 27, 1969; amended February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended July 12, 1974, effective July 13, 1974, 4 Pa.B. 1407; amended November 19, 1976, effective November 20, 1976, 6 Pa.B. 2907; amended October 14, 1977, effective October 15, 1977, 7 Pa.B. 3081; amended November 10, 1978, effective November 11, 1978, 8 Pa.B. 3084; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended September 4, 1981, effective September 5, 1981, 11 Pa.B. 3045; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended September 21, 1984, effective September 22, 1984, 14 Pa.B. 3426; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161833) to (161834).

**§ 121.66. [Reserved].****Source**

The provisions of this § 121.66 adopted February 27, 1969; amended November 19, 1976, effective November 20, 1976, 6 Pa.B. 2907; amended September 4, 1981, effective September 5, 1981, 11 Pa.B. 3045; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; reserved July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161834).

**§ 121.67. Repayment.**

(a) The repayment is due as follows:

(1) A loan is due for repayment when the student borrower has ceased to be enrolled on at least a half-time basis at an approved school for 9 consecutive months in the case of:

(i) A loan issued to a borrower for a period of enrollment that began prior to January 1, 1981.

(ii) A loan issued to a borrower for a period of enrollment beginning on or after January 1, 1981 if the borrower on the date the loan is disbursed has a loan guaranteed and outstanding under Title IV, Part B of the Higher Education Act of 1965 (Pub. L. No. 89-329, 79 Stat. 1219) for an enrollment period that began prior to January 1, 1981.

(2) In all other cases, the loan is due for repayment when the student borrower has ceased to be enrolled on at least a half-time basis at an approved school for 6 consecutive months.

(3) Within the applicable 9-month or 6-month period, the lender will provide the borrower with a repayment schedule.

(b) For loans disbursed by lenders prior to October 1, 1981, a student borrower shall repay in substantially equal monthly installment payments at least \$360 per year, including principal and interest. If the total of the insured loans would not be repaid in less time with minimum payments of \$360 per year, the repayment schedule shall provide for repayment in not less than 5 years nor more than 10 years beginning upon the expiration of the applicable grace period after the student ceases to be enrolled on at least a half-time basis at a participating

institution of higher learning, except where the borrower requests an earlier repayment starting date or where the lender agrees to monthly payments of less than \$30 over not more than a 10-year repayment schedule.

(c) For loans disbursed by the lender on or after October 1, 1981, a student borrower shall repay in substantially equal monthly installment payments at least \$600 per year, including principal and interest. If the total of the insured loans would not be repaid in less time with minimum payments of \$600 per year, the repayment schedule shall provide for repayment in not less than 5 years nor more than 10 years beginning upon the expiration of the applicable grace period after the student ceases to be enrolled on at least a half-time basis at a participating institution of higher learning, except where the borrower requests an earlier repayment starting date or where the lender agrees to monthly payments of less than \$50 over not more than a 10-year repayment schedule period.

(d) Upon proper notice to the lender, repayment of principal may be deferred in accordance with, and during periods specified in, the Higher Education Act of 1965 and Federal regulations based on this act. The borrower is responsible for interest not paid by the Federal government that accrues during any period principal repayment is deferred.

#### Authority

The provisions of this § 121.67 issued under the act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104).

#### Source

The provisions of this § 121.67 adopted February 27, 1969; adopted May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended November 19, 1976, effective November 20, 1976, 6 Pa.B. 2907; corrected December 9, 1978, 8 Pa.B. 3493; amended November 10, 1978, effective November 11, 1978, 8 Pa.B. 3084; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended September 4, 1981, effective September 5, 1981, 11 Pa.B. 3045; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial pages (128123) to (128127).

#### Cross References

This section cited in 22 Pa. Code § 121.70 (relating to default).

### § 121.68. Borrowers on probation.

A student borrower placed on academic or disciplinary probation shall remain eligible for a State loan guaranty if the institution of higher learning permits him to continue his studies on at least a half-time basis.

#### Source

The provisions of this § 121.68 adopted February 27, 1969.

**§ 121.69. Cancelled debt.**

The indebtedness of a borrower who dies, who becomes totally and permanently disabled, whose loans are discharged in bankruptcy, who is enrolled at an institution that closes or who has his eligibility to borrow falsely certified by the institution, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan.

**Authority**

The provisions of this § 121.69 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.69 adopted February 27, 1969; amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2874; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161836).

**§ 121.70. Default.**

Except as otherwise provided in § 121.67 (relating to repayment), a note shall be declared in default at the following times:

(1) One hundred and eighty days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a monthly payment was scheduled to be made by a student borrower under a repayment schedule, if the borrower fails to make the monthly payment within 180 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

(2) Two hundred forty days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a quarterly payment of nonsubsidized interest was scheduled to be made by a student borrower under a quarterly interest repayment schedule, if the borrower fails to make the quarterly payment within 240 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

**Authority**

The provisions of this § 121.70 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).



**Source**

The provisions of this § 121.70 adopted February 27, 1969; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended May 5, 1982, effective May 6, 1982, 12 Pa.B. 869; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161836) to (161837).

**§ 121.71. Year Abroad Program.**

A student borrower shall be eligible for a State loan guaranty for a Year Abroad Program, which shall provide the borrower with the equivalent credit for the academic term or terms involved in the program as he would earn at the approved institution of higher learning, and which requires the borrower to pay his educational costs to the approved institution of higher learning.

**Source**

The provisions of this § 121.71 adopted February 27, 1969.

**§ 121.72. Loan residency.**

(a) A student applicant shall be a resident of this Commonwealth at the time the student applies for a Federal Stafford Loan or to renew a loan guaranty. Establishment of residency may be based upon any one of the following:

(1) A student applicant who is under 18 years of age at the time the student applies for a Federal Stafford Loan or to renew a loan guaranty shall have a supporting parent or guardian who has been a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the loan guaranty application or renewal application.

(2) A student applicant who is 18 years of age or older at the time the student applies for a Federal Stafford Loan or to renew the guaranty shall have been a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the loan guaranty application or renewal application.

(3) A student applicant who is accepted for enrollment in or is attending an approved institution of higher education located in this Commonwealth is considered a bona fide domiciliary of this Commonwealth except in cases where the student is enrolled in a correspondence (home study) course, in which case the student shall be a bona fide domiciliary of this Commonwealth as described in paragraphs (1) and (2).

(b) For purposes of determining domicile, a guardian shall be one of the following:

(1) A person appointed by a court.

(2) A person other than a parent with whom the applicant has lived and in whose continuous direct care and control the applicant has been for at least 2 years.

(c) Military status of persons and their dependents who reside in the civilian community rather than on a military installation will not alone be grounds for determining an applicant ineligible.

(d) Persons and their dependents who leave this Commonwealth on military or foreign assignments, such as missionaries, United States military service personnel and representatives of domestic companies or government agencies, shall be presumed to maintain their domicile in this Commonwealth for purposes of satisfying the loan guaranty residence requirement.

(e) In the case of a student attending an institution of higher education in another state who is under 18 years of age whose parents or guardians move from this Commonwealth after the Agency has issued a loan guaranty, the eligibility of the applicant continues to the end of the applicant's program of study.

(f) A student who transfers to an approved institution of higher education located outside of this Commonwealth after having received guaranteed student loan assistance while attending a Commonwealth institution of higher education is eligible to have the loan guaranty renewed.

(g) A student applicant filing a loan guaranty renewal application who has outstanding loans with the Agency and whose domicile has changed from this Commonwealth due to the relocation of the applicant or supporting parents or guardian shall continue to be eligible for guaranteed student loan assistance until the end of the applicant's program of study.

(h) The Agency will make the final decision in all matters pertaining to residency or domicile, or both.

#### Authority

The provisions of this § 121.72 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.72 adopted July 28, 1972, effective July 29, 1972, 2 Pa.B. 1438; amended February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699; amended June 10, 1977, effective June 11, 1977, 7 Pa.B. 1579; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161837) to (161838).

### Subchapter D. MATCHING FUNDS PROGRAM

- Sec.  
121.81. Purpose of the Program.  
121.82. Participation agreement.  
121.83. [Reserved].

**§ 121.81. Purpose of the Program.**

The purpose of the Matching Funds Program is to assist Pennsylvania institutions of higher learning and Pennsylvania students attending an approved institution of higher education in securing or distributing Federal funds or other funds to be used by the institutions, the Agency or other entities approved by the Agency as financial aid to students in meeting their costs of attendance at the institution of higher learning.

**Source**

The provisions of this § 121.81 adopted March 15, 1971, effective March 16, 1971, 1 Pa.B. 999; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (128129).

**§ 121.82. Participation agreement.**

Each participating institution shall execute through its authorized representative an Agreement with the Agency which shall contain procedural and accounting requirements to insure auditable records are maintained.

**Source**

The provisions of this § 121.82 adopted March 15, 1971, effective March 16, 1971, 1 Pa.B. 999.

**§ 121.83. [Reserved].****Source**

The provisions of this § 121.83 adopted March 15, 1971, effective March 16, 1971, 1 Pa.B. 999; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (128129).

**Subchapter E. [Reserved]****§ 121.91. [Reserved].****Source**

The provisions of this § 121.91 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2179; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (128130).

**§ 121.92. [Reserved].****Source**

The provisions of this § 121.92 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial pages (128130) and (121691).

**§ 121.93. [Reserved].****Source**

The provisions of this § 121.93 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (121691).

**§ 121.94. [Reserved].****Source**

The provisions of this § 121.94 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial pages (121691) to (121692).

**§ 121.95. [Reserved].****Source**

The provisions of this § 121.95 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; reserved December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699. Immediately preceding text appears at serial page (14033).

**§ 121.96. [Reserved].****Source**

The provisions of this § 121.96 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, December 28, 1974, 4 Pa.B. 2699; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (121692).

**Subchapter F. POW/MIA's EDUCATION PROGRAM****Sec.**

- 121.111. Application of existing Agency regulations.
- 121.112. Qualified dependents.
- 121.113. Approved program of study.
- 121.114. Enrollment.
- 121.115. Approved institutions.
- 121.116. Determination of financial aid.
- 121.117. Submission of applications.
- 121.118. Concurrent higher education grants prohibited.

**Cross References**

This subchapter cited in 22 Pa. Code § 121.121 (relating to application of existing Agency regulations).

**§ 121.111. Application of existing Agency regulations.**

Those Agency higher education grant regulations contained in Subchapters A and B (relating to general provisions; and Higher Education Grant Program) applies to applicants in the POW/MIA's Education Program except those regulations which are inconsistent with this Subchapter.

**Source**

The provisions of this § 121.111 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719.

**§ 121.112. Qualified dependents.**

An applicant shall be a qualified dependent in order to be eligible for assistance under this program. A qualified dependent is defined as the child of a member of the United States Armed Services who served on active duty after January 31, 1955 and who has been or is a prisoner of war or is reported as missing in action and was a domiciliary of the Commonwealth for at least 12 consecutive months immediately preceding his service on active duty. Qualified dependents shall not include the child of any such member of the United States Armed Services who deserted, defected to the enemy, or who has otherwise been released or discharged under other than honorable conditions.

**Source**

The provisions of this § 121.112 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325.

**§ 121.113. Approved program of study.**

An applicant shall be enrolled in an approved program of study in order to be eligible for assistance under this program. An approved program of study is defined as any undergraduate degree or nondegree program of at least one academic year in duration. An academic year is defined as 24 semester credits or its equivalent at a degree institution and at least 900 clock hours at a business, trade or technical school.

**Source**

The provisions of this § 121.113 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325.

**§ 121.114. Enrollment.**

An applicant shall be enrolled on at least half-time basis in order to be eligible for assistance under this program. Half-time enrollment shall be defined as 6 credit hours per semester or its equivalent at a degree granting institution and 225 clock-hours of instruction per semester or its equivalent at a business, trade or technical school.

**Source**

The provisions of this § 121.114 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325.

**§ 121.115. Approved institutions.**

An applicant shall be enrolled at an institution approved by the Agency for participation in the basic State Higher Education Grant Program and those institutions offering 1-year programs which, but for the lack of approved 2-year programs, would be eligible institutions in the basic State Higher Education Grant Program.

**Source**

The provisions of this § 121.115 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719.

**§ 121.116. Determination of financial need.**

An applicant shall demonstrate financial need in order to be eligible for assistance under the Program. Determination of financial need shall be made in accordance with Agency procedures and without regard to the financial status of the parents or the scholastic achievement test score of the applicant.

**Source**

The provisions of this § 121.116 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325.

**§ 121.117. Submission of applications.**

Applications from qualified dependents will be accepted and processed by the Agency if received prior to April 1 of the academic year, subject to the availability of funds.

**Source**

The provisions of this § 121.117 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial page (121694).

**§ 121.118. Concurrent higher education grants prohibited.**

A student may not receive concurrent higher education grants under the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. §§ 5151—5159); act of October 11, 1972 (P. L. 899, No. 213) (24 P. S. §§ 5161—5163); and the Veterans' Education Act of 1971 (24 P. S. §§ 5171—5174).

**Source**

The provisions of this § 121.118 adopted February 16, 1973, effective February 17, 1973, 3 Pa.B. 325; amended November 23, 1973, effective November 24, 1973, 3 Pa.B. 2719; amended December 27, 1974, effective December 28, 1974, 4 Pa.B. 2699. Immediately preceding text appears at serial page (14035).

**Subchapter G. INSTITUTIONAL ASSISTANCE  
GRANTS PROGRAM**

Sec.

- 121.121. Application of existing Agency regulations.
- 121.122. Eligible institutions.
- 121.123. Determination of institutional assistance grants.
- 121.124. Participation agreement.
- 121.125. [Reserved].

**Authority**

The provisions of this Subchapter G issued under act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189), unless otherwise noted.

**Source**

The provisions of this Subchapter G adopted December 6, 1974, effective December 7, 1974, 4 Pa.B. 2485, unless otherwise noted.

**§ 121.121. Application of existing Agency regulations.**

The Agency higher education grant regulations contained in Subchapters A, B and F (relating to general provisions; Higher Education Grant Program; and POW/MIA's Education Program) apply to the determination of eligible recipients for the accounting of funds to be disbursed to each eligible institution of higher learning in the Institutional Assistance Grants Program, except those regulations which are inconsistent with this subchapter.

**Authority**

The provisions of this § 121.121 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.121 adopted December 6, 1974, effective December 7, 1974, 4 Pa.B. 2485; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161844).

**§ 121.122. Eligible institutions.**

(a) Eligible institution shall mean an independent institution of higher education located in, and chartered by, the Commonwealth, which is neither a State-owned institution, State-related institution nor a community college, which is operated not for profit, which is determined by the Agency not to be a theological seminary or school of theology or a sectarian and denominational institution and which is approved by the Agency for institutional assistance grants under The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189) or this chapter.

(b) In order to determine whether an institution is a theological seminary or school of theology or a sectarian and denominational institution, the Agency shall require information from the institution concerning the purposes, policies and governance of the institution and its faculty, student body, curricula and programs. While each institution may submit whatever information it considers relevant to the question of its eligibility, particular factors which may be considered by the Agency in determining whether an institution is a theological seminary or school of theology or a sectarian and denominational institution are the following:

- (1) The stated purposes of the institution as set forth in its charter or legislative authority and other relevant documents.
- (2) The nature and extent of control or direction of the institution in any areas of the life of the institution by any religious denomination, body, sect or order.
- (3) The nature and extent of financial assistance received by an institution from any religious denomination, body, sect or order, and the proportional relationship which such assistance bears to other sources from which the institution derives funds.
- (4) The policies of the institution with respect of the selection of members of its governing body, its administrative officers, or its faculty, relating to the faith or creed of a candidate.
- (5) The policies of the institution with respect to the admission of students relating to the faith or creed of the applicant.
- (6) The nature and extent of any instruction in denominational tenets or doctrine required by the institution.
- (7) The degree or degrees in the field of religion awarded by the institution and the relationship of such to the total degrees awarded by the institution.
- (8) The nature and extent of religious studies or courses in religion required for any degree awarded by the institution.
- (9) The character and extent of required religious observances or services in the programs of the institution.
- (10) The nature and extent of any real property or facility used by the institution which is owned or leased by any religious denomination, body, sect or



order, or which is owned by the institution and encumbered by mortgages or other security interest given to any religious denomination, body, sect or order.

(11) The provisions governing the distribution of assets in case of dissolution of the institution.

(12) Any other information which the institution or the Agency deems pertinent to a determination of its eligibility by the Agency.

(c) The above factors are illustrative of the criteria which the Agency may consider in exercising its discretion to determine the eligibility of an institution according to the particular circumstances of that institution.

#### Source

The provisions of this § 121.122 adopted December 27, 1974, effective December 28, 1974, 4 Pa.B. 2485.

### § 121.123. Determination of institutional assistance grants.

(a) Institutional assistance grants, established by dividing the total funds available for institutional grants in this program by the number of Pennsylvania State grant recipients certified to the Agency by the participating institutions, will be paid to an eligible institution in either a lump sum or in installments at the discretion of the Agency. The institutional assistance grants shall be in a number equal to the number of full-time equivalent students receiving assistance from the Pennsylvania Higher Education Grant Program or the POW/MIA's Education Program certified as enrolled during the academic year except those intra-year transfer students from any other eligible institution. The following are examples:

(1) If a student enrolls in eligible institution A, the institution shall receive an institutional assistance grant by reason of the enrollment if, as of the date of the Eligibility Certification Listing, the student either had been enrolled at least half time for at least one complete semester, trimester or quarter of the academic year or is enrolled at least half time for the current semester, trimester or quarter.

(2) If a student enrolls in eligible institution B during the academic year as a transfer student from an institution other than an eligible institution, institution B shall receive an institutional assistance grant by reason of the enrollment if, as of the date of the Eligibility Certification Listing, the student had been enrolled at least half time for at least one complete semester, trimester or quarter of the academic year or is enrolled at least half time for the current semester, trimester or quarter.

(3) If a student enrolls in eligible institution B during the academic year as a transfer student from eligible institution A, institution B will not receive an institutional assistance grant during the academic year if by reason of the student's enrollment an institutional assistance grant has been paid or will be paid to eligible institution A by reason of the student's previous enrollment in institution A during the same academic year.

(b) For purposes of this section, an Eligibility Certification Listing is defined as a listing created by the Agency for the institution to use in certifying the enrollment of students for the purpose of determining the institution's entitlement to institutional assistance grants.

#### Authority

The provisions of this § 121.123 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.123 adopted December 27, 1974, effective December 28, 1974, 4 Pa.B. 2485; amended July 20, 1979, effective July 21, 1979, 9 Pa.B. 2392; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321; corrected November 15, 1996, effective July 13, 1996, 26 Pa.B. 5640. Immediately preceding text appears at serial pages (218173) to (218174).

### § 121.124. Participation agreement.

(a) Each participating institution shall execute through its authorized representative an Agreement with the Agency which shall contain the following:

(1) Assurance that auditable records are maintained.

(2) Assurance against discrimination of any Commonwealth resident applicant for admission because the applicant does not apply or qualify for assistance under the Pennsylvania Higher Education Grant Program or the POW/MIA's Education Program.

(3) Assurance that institutional assistance grant moneys will only be used for, or in connection with, expenses incurred for educational costs other than expenses for sectarian and denominational instruction, the construction or maintenance of sectarian and denominational facilities, or for any other sectarian and denominational purpose or activity.

(b) To be entitled to share in the distribution of the Institutional Assistance Grants Program funds of a particular fiscal year, an institution shall have submitted a properly signed participation agreement to the Agency by August 1 of that same fiscal year. The President and Chief Executive Officer may extend this deadline if an extension would not cause undue interference with the operation of the Institutional Assistance Grants Program, though an institution may not share in the Institutional Assistance Grants Program funds of a particular fiscal year if that institution has not submitted a properly signed participation agreement to the Agency by the time of the first disbursement of the Institutional Assistance Grants Program funds of that particular fiscal year.

**Authority**

The provisions of this § 121.124 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.124 adopted December 27, 1974, effective December 28, 1974, 4 Pa.B. 2485; amended March 30, 1979, effective March 31, 1979, 9 Pa.B. 1128; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161846) to (161847).

**§ 121.125. [Reserved].****Source**

The provisions of this § 21.125 adopted December 27, 1974, effective December 28, 1974, 4 Pa.B. 2485; amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1134; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2428. Immediately preceding text appears at serial pages (128131) to (128132).

**Subchapter H. FEDERAL PLUS PROGRAM**

- Sec.
- 121.131. Submission and processing of applications.
  - 121.132. Lender eligibility.
  - 121.133. [Reserved].
  - 121.134. Loan insurance premium.
  - 121.135. Federal PLUS Loan guaranty limits.
  - 121.136. [Reserved].
  - 121.137. Repayment.
  - 121.138. Student on probation.
  - 121.139. Cancelled debt.
  - 121.140. Default.
  - 121.141. Loan residency.
  - 121.142. Co-maker/co-signer.

**Authority**

The provisions of this Subchapter H issued under act of July 12, 1981 (P. L. 264, No. 89) (24 P. S. §§ 5102.1 and 5104(1.2)), unless otherwise noted.

**Source**

The provisions of this Subchapter H adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760, unless otherwise noted.

**§ 121.131. Submission and processing of applications.**

(a) *Applicant.* A parent of a dependent student desiring to secure a guaranty of a Federal PLUS Loan shall obtain from a participating lender, a participating school or Agency a loan application packet containing the application/promissory note form for the Federal PLUS Loan. The information provided on the form will be used to determine the eligibility of the applicant to receive a PHEAA Federal PLUS Loan. The student for whom the loan funds shall be used to meet educational expenses shall complete the information requested on the student's portion of the Federal PLUS Loan application, including the affidavit in which the student authorizes the school and the lender named on the Federal PLUS Loan application form to release information contained in the student's file that is relevant to the eligibility of the student for the Federal PLUS Loan Program. The applicant shall complete the appropriate section of the application, including the affidavit in which the applicant agrees to use the loan proceeds solely for the educational expenses of the student named in the application. The applicant shall also read, sign and date the promissory note included on the loan application form. After completing the appropriate section of the Federal PLUS Loan application form, the applicant shall retain one copy of the form and forward the remaining copies of the application/promissory note form as referenced on the form.

(b) *Educational institution.* The institution shall certify the Federal PLUS Loan application according to the instructions provided by the Agency.

(c) *Processing by the Agency.* The Agency will check the application/promissory note form for completeness. If not complete, the Agency will obtain from the applicant the missing data items.

(d) *Completion of processing.* Upon receipt of missing information, the Agency will complete the processing of the loan application and determine the amount of loan assistance the borrower is entitled to obtain. The Agency will inform the lender of the amount of the guaranty by sending the lender the appropriate Loan Guaranty Notice and Disclosure Statement.

(e) *Action by lender.* The lender shall provide the applicant with a copy of the Loan Guaranty Notice and Disclosure Statement and disburse the funds by means of a check or electronic funds transfer. If the lender does not wish to make the loan, the lender shall mark "Denied" on the Loan Guaranty Notice and Disclosure Statement or report the denial of the loan by the computer terminal. An adverse action notice shall be provided to the borrower by the lender if loan assistance is denied.

**Authority**

The provisions of this § 121.131 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.131 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 250; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161848) to (161849).

**§ 121.132. Lender eligibility.**

A bank, Federal or State savings and loan association, mutual savings bank, Federal or State credit union or other approved lender which executes a Lender Participation Agreement with the Agency and an Agreement for Participation in the guaranteed loan program with the United States Secretary of Education shall become an eligible lender.

**§ 121.133. [Reserved].****Source**

The provisions of this § 121.133 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4633. Immediately preceding text appears at serial page (138281).

**§ 121.134. Loan insurance premium.**

A borrower shall, at the option of the Agency, pay to the lender, at the time the borrower obtains the loan, a loan insurance premium calculated as a percentage of the loan guaranty amount. The percentage used cannot exceed the rate mandated by Federal law and regulations.

**Authority**

The provisions of this § 121.134 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104).

**Source**

The provisions of this § 121.134 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended March 4, 1983, effective March 5, 1983, 13 Pa.B. 887; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended July 22, 1988, effective July 23, 1988, 18 Pa.B. 3206. Immediately preceding text appears at serial pages (121702) to (121703).

**§ 121.135. Federal PLUS Loan guaranty limits.**

The Agency will guarantee a Federal PLUS Loan for the difference between cost minus other financial assistance.

**Authority**

The provisions of this § 121.135 issued and amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.135 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended September 21, 1984, effective September 22, 1984, 14 Pa.B. 3426; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161850) to (161851).

**§ 121.136. [Reserved].****Source**

The provisions of this § 121.136 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161851) to (161852).

**§ 121.137. Repayment.**

(a) A Federal PLUS Loan is due for repayment within 60 days of the date of the final disbursement of the loan.

(b) A borrower shall repay in substantially equal monthly installment payments at least \$600 per year, including principal and interest. If the total of the insured loans would not be repaid in less time with minimum payments of \$600 per year, the repayment schedule shall provide for repayment in not less than 5 years, nor more than 10 years. The lender and the borrower may agree to monthly payments of less than \$50 over not more than a 10-year repayment schedule.

(c) Upon proper notice to the lender, repayment of principal may be deferred in accordance with, and during periods specified in, the Higher Education Act of 1965 (Pub. L. No. 89-329, 79 Stat. 1219) and Federal regulations based on this act. The borrower is responsible for the interest that accrues during any period principal repayment is deferred.

**Authority**

The provisions of this § 121.137 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.137 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2428; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161852) to (161853).

**Cross References**

This section cited in 22 Pa. Code § 121.140 (relating to default); and 22 Pa. Code § 121.142 (relating to co-maker/co-signer).

**§ 121.138. Student on probation.**

A student borrower or a student for whom a parent has borrowed placed on academic or disciplinary probation shall remain eligible for a PLUS/ Supplemental Loans for Students loan guaranty if the institution of higher learning permits the student to continue studies on at least a half-time basis.

**Authority**

The provisions of this § 121.138 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151).

**Source**

The provisions of this § 121.138 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120. Immediately preceding text appears at serial page (114227).

**§ 121.139. Cancelled debt.**

The obligation to repay the indebtedness of a Federal PLUS Loan borrower who dies, who becomes totally and permanently disabled, whose loans are discharged in bankruptcy or who has his eligibility to borrow falsely certified by the school, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan. The obligation to repay the indebtedness of a Federal PLUS Loan borrower shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan of the death of the student on whose

behalf the parent borrowed the Federal PLUS Loan or closure of the school at which the student on whose behalf the parent borrowed the Federal PLUS loan is enrolled.

#### Authority

The provisions of this § 121.139 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.139 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161854).

#### Cross References

This section cited in 22 Pa. Code § 121.142 (relating to co-maker/co-signer).

### § 121.140. Default.

Except as otherwise provided in § 121.137 (relating to repayment), a note shall be declared in default at the following times:

- (1) One hundred eighty days after the date on which a monthly payment was scheduled to be made by the borrower under a repayment schedule, if the borrower fails to make the monthly payment within 180 days after its due date.
- (2) Two hundred forty days after the date on which a quarterly payment of interest was scheduled to be made by the borrower under a quarterly interest payment schedule, if the borrower fails to make the quarterly payment within 240 days after its due date.

#### Authority

The provisions of this § 121.140 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.40 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (161854).

### § 121.141. Loan residency.

(a) A parent applicant shall, at the time the parent applies for a Federal PLUS Loan or to renew a Federal PLUS Loan guaranty, be a resident of this Common-



wealth. The parent applicant, to be considered a resident of this Commonwealth, shall be the parent of a student who is accepted for enrollment in or is attending an approved institution of higher education located in this Commonwealth. In the case of the parent of a student who is enrolled in or attending a non-Pennsylvania school or participating in a correspondence (home study) course through a Pennsylvania institution, the parent applicant shall be a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the Federal PLUS Loan application to obtain a loan for such a student.

(b) For purposes of determining domicile, a guardian is:

(1) A person appointed by a court.

(2) A person other than a parent with whom the applicant has lived and in whose continuous direct care and control the applicant has been for at least 2 years.

(c) Military status of persons and their dependents who reside in the civilian community rather than on a military installation may not alone be grounds for determining an applicant ineligible.

(d) Persons and their dependents who leave this Commonwealth on military or foreign assignments, such as missionaries, United States military service personnel and representatives of domestic companies or government agencies, shall be presumed to maintain their domicile in this Commonwealth for the purposes of satisfying the Federal PLUS Loan guaranty residency requirement.

(e) In the case of a parent borrower who moves from this Commonwealth after the Agency has issued a loan guaranty for the academic year for a student attending an institution of higher education in another state, the loan guaranty eligibility of the applicant shall continue to the end of the student's program of study.

(f) If a student transfers to an approved institution located outside of this Commonwealth after the borrower for the student has received loan assistance while the student was attending a Commonwealth institution of higher education, the borrower for the student is eligible to have the loan assistance renewed.

(g) The Agency will make the final decision in all matters pertaining to residency or domicile, or both.

#### Authority

The provisions of this § 121.141 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

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**Source**

The provisions of this § 121.141 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; corrected August 22, 1981, 11 Pa.B. 2911; amended January 16, 1987, effective January 17, 1987, 17 Pa.B. 249; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161854) to (161856).

**§ 121.142. Co-maker/co-signer.**

(a) *Co-makers.* Two eligible borrowers may take out one loan on behalf of one student under the Federal PLUS Loan Program. As co-makers, both borrowers shall meet the eligibility criteria, both borrowers are equally liable for the repayment of the loan and both must qualify in order for any special benefits associated with the loan, such as deferment or cancellation, to be received.

(b) *Co-signers.* A borrower may have another party as a co-signer to a Federal PLUS Loan. The borrower assumes the primary liability and is fully responsible for repaying the debt. The co-signer is secondary liable. Only if the person with primary liability fails to honor the repayment obligation shall the lender attempt to collect from the co-signer. The co-signer does not have to be an eligible borrower. If the borrower qualifies for a deferment under § 121.137 (relating to repayment) or cancellation under § 121.139 (relating to cancelled debt), the loan is deferred or cancelled. A co-signer who signs the Federal PLUS Loan Promissory Note is not eligible for deferment or cancellation.

**Authority**

The provisions of this § 121.142 amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.142 adopted August 7, 1981, effective August 8, 1981, 11 Pa.B. 2760; amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1043; amended October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (161856) to (161857).

**Subchapter I. SCHOLARS IN EDUCATION AWARD PROGRAM  
AND LOAN FORGIVENESS PROGRAM**

Sec.

- 121.151. Application of existing Agency regulations.
- 121.152. Qualified applicant.
- 121.153. Eligible institution.
- 121.154. Selection of recipients.
- 121.155. Amount of Scholars in Education Awards.

- 121.156. [Reserved].
- 121.157. Teaching commitment.
- 121.158. Deferment or cancellation of teaching commitment.
- 121.159. Approved Commonwealth school.
- 121.160. State certification.

#### Authority

The provisions of this Subchapter I issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151), unless otherwise noted.

#### Source

The provisions of this Subchapter I adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442, unless otherwise noted.

### § 121.151. Application of existing Agency regulations.

(a) The following higher education grant regulations contained in Subchapters A and B (relating to general provisions; and Higher Education Grant Program) shall apply to applicants in the Scholars in Education Award Program except those provisions which are inconsistent with this subchapter:

- (1) Section 121.1—Definitions.
- (2) Section 121.3—Discrimination prohibited.
- (3) Section 121.4(a)—Denial of eligibility to loan defaulters.
- (4) Section 121.5(b)—Enrollment.
- (5) Section 121.6—Denial of eligibility for financial assistance.
- (6) Section 121.7—Notice of denial and preliminary review procedures.
- (7) Section 121.8—Applicant and recipient appeals and hearings.
- (8) Section 121.21—Requirement for Higher Education Grant applicants.
- (9) Section 121.22—Early admission students.
- (10) Section 121.32—Approved institutions in Higher Education Grant Program.
- (11) Section 121.33—Approved program of study in Higher Education Grant Program.
- (12) Section 121.34—Institutional appeals and hearings (for other than the Federal Family Education Loan Programs).
- (13) Section 121.48—Limitation on payments of grants.
- (14) Section 121.49—Duration of State Higher Education Grants.
- (15) Section 121.50—Disbursement of State Higher Education Grants.
- (16) Section 121.51—Refund of State Higher Education Grants.
- (17) Section 121.52—Transferring an award.
- (18) Section 121.53—Forfeiture of award.
- (19) Section 121.54—Deferment of award.
- (20) Section 121.56—Year Abroad Program.
- (21) Section 121.57—Higher Education Grant domicile.

(b) The following higher education grant regulations contained in Subchapters A and B applies to applicants in the Loan Forgiveness Program except those provisions which are inconsistent with this subchapter:

- (1) Section 121.1—Definitions.
- (2) Section 121.3—Discrimination prohibited.
- (3) Section 121.4(a)—Denial of eligibility to loan defaulters.
- (4) Section 121.6—Denial of eligibility for financial assistance.
- (5) Section 121.7—Notice of denial and preliminary review procedures.
- (6) Section 121.8—Applicant and recipient appeals and hearings.

**Source**

The provisions of this § 121.151 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442.

**§ 121.152. Qualified applicant.**

(a) A qualified applicant in the Scholars in Education Award Program shall be a bona fide domiciliary of this Commonwealth for at least 12 months immediately preceding the date the applicant completes the teaching commitment letter who meets the requirements established by the Agency and who intends to have as his principal assignment—that is, no less than 50% of the normal teaching load—the teaching of science or mathematics at an approved Commonwealth school commencing with the school year immediately following receipt of the baccalaureate degree. For purposes of the Scholars in Education Award Program, science means the physical or biological sciences. A qualified applicant in the Scholars in Education Award Program shall be in one of the following categories:

- (1) Category I—A high school senior or high school graduate who intends to enroll, or a first-year student currently enrolled, at an eligible institution on a full-time basis in a baccalaureate degree program leading to State certification to teach science or mathematics in a Commonwealth school.
- (2) Category II—A second- or third-year student who is currently enrolled as a full-time undergraduate at an eligible institution who is in a baccalaureate degree program leading to State certification to teach science or mathematics in a Commonwealth school.

(b) A qualified applicant in the Loan Forgiveness Program shall be a recipient of a 4-year degree with certification in mathematics or science who is a first-year teacher in 1983 or later teaching science or mathematics who meets the requirements established by the Agency. The applicant shall have as his principal assignment—that is, no less than 50% of the normal teaching load—the teaching of science or mathematics at an approved Commonwealth school and shall have borrowed through the PHEAA-administered Stafford Loan Program or another educational loan program approved by the Agency. For purposes of the Loan Forgiveness Program, science means the physical or biological sciences.

**Source**

The provisions of this § 121.152 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended June 7, 1985, effective June 8, 1985, 15 Pa.B. 2101; amended November 1, 1985, effective November 2, 1985, 15 Pa.B. 3933; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4483. Immediately preceding text appears at serial pages (121711) to (121712).

**Notes of Decisions***Qualified Applicant*

The Higher Education Assistance Agency's determination, that guidance counselors, psychologists and school nurses were not "qualified applicants" eligible for a reduction in educational loan amounts, was not erroneous. *Cherry v. Higher Education Assistance Agency*, 620 A.2d 687 (Pa. Cmwlth. 1993); appeal granted 626 A.2d 1159 (Pa. 1993); order affirmed 642 A.2d 463 (Pa. 1994).

**§ 121.153. Eligible institution.**

An eligible institution in the Scholars in Education Award Program shall be an institution of higher education located in this Commonwealth that has been identified to the Agency by the Department of Education as having an approved program in teacher education for mathematics or science majors.

**Source**

The provisions of this § 121.153 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442.

**§ 121.154. Selection of recipients.**

(a) Recipients in the Scholars in Education Award Program and Loan Forgiveness Program shall be those qualified applicants who are judged to be the most academically talented according to the criteria established by the Agency. Such criteria may include but will not be limited to national test scores, rank in class, grade point average, and recommendations from appropriate officials. Awards will be made to the extent the funds therefor are provided by the Board of Directors.

(b) Recipients of the Scholars in Education Award shall be eligible for annual renewal of their award for up to 3 years if the recipient complies with the criteria established by the Agency for renewal.

**Source**

The provisions of this § 121.154 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442.

**§ 121.155. Amount of Scholars in Education Awards.**

The amount of the Scholars in Education Award shall be no less than \$1,500 per academic year but no more than 1/2 of the academic year cost of tuition at the eligible institution the recipient is attending or \$5,000, whichever is less. The award may be reduced to less than \$1,500 or cancelled, in accordance with the procedures established by the Agency, in order to prevent a Scholars in Educa-

tion Award recipient from receiving total scholarship, grant or gift aid in excess of educational costs for the period enrolled.

**Source**

The provisions of this § 121.155 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4483. Immediately preceding text appears at serial page (121713).

**§ 121.156. [Reserved].**

**Source**

The provisions of this § 121.156 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended June 7, 1985, effective June 8, 1985, 15 Pa.B. 2101; reserved October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637. Immediately preceding text appears at serial pages (151289) to (151290).

**§ 121.157. Teaching commitment.**

(a) *Scholars in Education Award.* To be eligible for a Scholars in Education Award the recipient shall agree to spend the major portion of the school day teaching mathematics or science for 1 school year in an approved Commonwealth school for each annual Scholars in Education Award the student receives. Fulfillment of the teaching commitment shall commence with the school year immediately following receipt of the baccalaureate degree.

(b) *Failure to honor commitment.* Recipients who fail to honor the specified teaching commitment or who fail to submit such documentation as the Agency may require as proof of compliance with the specified teaching commitment and who do not receive a deferment of the commitment from the Agency shall be required to repay to the Agency the amount of the awards received plus interest in accordance with the rules established by the Agency.

(c) *Loan forgiveness.* Those selected for Loan Forgiveness shall be required to submit documentation as the Agency may require as proof that the individual has spent the major portion of the school day during the school year teaching mathematics or science at an approved Commonwealth school.

**Source**

The provisions of this § 121.157 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4483. Immediately preceding text appears at serial page (121714).

**§ 121.158. Deferment or cancellation of teaching commitment.**

(a) The Agency may grant deferment of the teaching commitment in the Scholars in Education Award Program if the recipient is unable to comply with the specific teaching commitment for one or more of the following reasons:

(1) Inability on the part of the recipient to find full-time employment in the specific teaching commitment area of instruction at an approved Commonwealth school despite conscientious and sincere efforts to do so.

(2) Temporary total disability of borrower as established by sworn statement of a qualified physician or temporary total disability of borrower's spouse so established if borrower is unable to secure teaching employment in an approved Commonwealth school because of need to care for his spouse.

(3) Layoff or furlough from teaching employment due to economic reasons.

(4) Other reasons which the Agency, in its sole judgment, may approve.

(b) The Agency may cancel the teaching commitment for any of the following reasons:

(1) Upon submission to PHEAA of documentation of the recipient's death.

(2) Upon the acceptance by PHEAA of the statement of a physician verifying the total and permanent disability of the recipient.

(3) Other reasons which the Agency, in its sole judgment, may approve.

#### Source

The provisions of this § 121.158 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4483. Immediately preceding text appears at serial pages (121714) and (128141).

### § 121.159. Approved Commonwealth school.

An approved Commonwealth school is a public, private or parochial school located in this Commonwealth and approved or licensed by the Pennsylvania Department of Education.

#### Source

The provisions of this § 121.159 adopted February 10, 1984, effective February 11, 1984, 14 Pa.B. 442; amended November 1, 1985, effective November 2, 1985, 15 Pa.B. 3933; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4483. Immediately preceding text appears at page (128141).

### § 121.160. State certification.

For the purposes of the Scholars in Education Award Program and Loan Forgiveness Program, State certification means Pennsylvania public school certification endorsed in the areas of mathematics or science.

#### Source

The provisions of this § 121.160 adopted November 1, 1985, effective November 2, 1985, 15 Pa.B. 3933.

**Subchapter J. CONSOLIDATION LOAN PROGRAM**

Sec.

- 121.181. Submission and processing of applications.
- 121.182. Lender eligibility.
- 121.183. Repayment.
- 121.184. Cancelled debt.
- 121.185. Default.

**§ 121.181. Submission and processing of applications.**

(a) *Applicant.* An applicant desiring to secure a Federal Consolidation Loan guaranty shall obtain from a participating lender or from the Agency a loan application packet containing the Federal Consolidation Loan Application/Promissory Note form. The information provided on the form will be used to determine the eligibility of the applicant to receive a Federal Consolidation Loan. The applicant shall complete the loan application and read, sign and date the promissory note that is part of the loan application form. After completing this form, the applicant shall retain a copy and forward the remaining copies of the form to the lender or to the Agency as instructed on the form.

(b) *Lender.* If the form is sent to the lender, the lender shall make sure the applicant has completed the application/promissory note and signed and dated the form. The lender shall obtain loan payoff data concerning the loans to be consolidated from the creditors holding the loans. The lender shall determine to its satisfaction that each loan being consolidated is a legal, valid and binding obligation of the borrower, that each loan was made and serviced in compliance with applicable law and regulations, and, in the case of Federal Family Education Loans that the guaranty on the loan is still in effect. The lender shall electronically or by other means forward a copy of the application/promissory note form to the Agency.

(c) *PHEAA.* The Agency will complete processing of the loan application and make a final determination of the amount of loan assistance the applicant is entitled to obtain. The Agency will then electronically or by other means inform the lender of the amount of the guaranty.

(d) *Lender.* The lender shall provide the borrower with a Federal Consolidation Loan Repayment Schedule Disclosure Statement and issue sufficient loan disbursement checks to discharge the borrower's liability on the loans selected and approved for consolidation. An adverse action notice will be provided to the borrower by the lender if Federal Consolidation Loan assistance is denied.

**Authority**

The provisions of this § 121.181 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151);



the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.181 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (183523) to (183524).

### § 121.182. Lender eligibility.

A bank, Federal or State savings and loan association, mutual savings bank, Federal or State credit union or other lender approved by the United States Secretary of Education and by the Agency which executes a Lender Participation Agreement for Federal Consolidation Loans with the Agency shall become an eligible lender.

#### Authority

The provisions of this § 121.182 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.182 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (183524).

### § 121.183. Repayment.

(a) A loan is due for repayment within 60 days after the date upon which all holders of the loans consolidated have discharged the borrower's liability for these loans.

(b) The borrower shall repay a Federal Consolidation Loan according to the repayment schedule provided by the lender. The repayment schedule shall provide for repayment in monthly installments and over a term as specified in Federal statutes and regulations.

(c) Upon proper notice to the lender, repayment of principal may be deferred in accordance with, and during periods specified in, the Higher Education Act of 1965, the act of November 8, 1965 (Pub.L. No. 89-329, 79 Stat. 1219) and Federal regulations based on this act. The borrower is responsible for interest not paid by the Federal government that accrues during any period principal repayment is deferred. If the borrower has consolidated subsidized Federal Stafford Loans, the interest that accrues during a period of deferment will be paid by the Federal government.

**Authority**

The provisions of this § 121.183 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.183 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended October 4, 1991, effective October 5, 1991, 21 Pa.B. 4637; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (183524) to (183525).

**Cross References**

This section cited in 22 Pa. Code § 121.185 (relating to default).

**§ 121.184. Cancelled debt.**

The obligation to repay the indebtedness of a Federal Consolidation Loan borrower who dies, who becomes totally and permanently disabled, or whose loans are discharged in bankruptcy, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan of the deceased, disabled or bankrupt borrower.

**Authority**

The provisions of this § 121.184 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.184 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial page (183525).

**§ 121.185. Default.**

Except as otherwise provided in § 121.183 (relating to repayment), a note shall be declared in default at the following times:

- (1) One hundred eighty days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a monthly payment was scheduled to be made by a borrower under a repayment schedule, if the borrower fails to make the monthly payment within 180 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

(2) Two hundred forty days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a quarterly payment of nonsubsidized interest was scheduled to be made by a borrower under a quarterly interest repayment schedule, if the borrower fails to make the quarterly payment within 240 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

**Authority**

The provisions of this § 121.185 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

**Source**

The provisions of this § 121.185 adopted July 22, 1988, effective July 23, 1988, 18 Pa.B. 3208.

**Subchapter K. LENDING INSTITUTIONS**

Sec.

121.191. Approved lending institutions in Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.

**§ 121.191. Approved lending institutions in Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.**

- (a) To be approved, a lending institution shall comply with the following:
- (1) The lending institution shall be approved by the Agency as an eligible institution for participation in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.
  - (2) The lending institution shall meet the United States Department of Education definition of “eligible lender” contained in section 435(d) of the Higher Education Act of 1965 (20 U.S.C.A. § 1085(d)).
  - (3) The lending institution shall have executed and filed with the Agency an agreement, on a form provided by the Agency, to make the loan program available to eligible students enrolled or accepted for enrollment in an approved educational institution to the extent of its resources available for these loans.
- (b) The lending institution shall comply with the Federal laws and regulations governing the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.
- (c) Mailing dates and receipt dates referenced in this section shall be evidenced by United States Postal Service receipts. If a lending institution refuses or

fails to accept a notice mailed as set forth in this section, the Agency will consider the notice as being received on the date that the lending institution refuses or fails to accept the notice as noted by the United States Postal Service.

(d) The following provisions deal with emergency action:

(1) The President and Chief Executive Officer may take emergency action as follows against a lending institution under which the processing of loan applications for students borrowing through the institution is withheld if the President and Chief Executive Officer:

(i) Receives information, determined by an Agency official to be reliable, that the lending institution is in violation of applicable laws, regulations, special arrangements, agreements or limitations.

(ii) Determines that immediate action is necessary to protect the interest of applicants, the United States, the Commonwealth or the Agency.

(iii) Determines that the likelihood of loss outweighs the importance of following the procedures set forth for suspension, limitation or termination in subsection (e).

(2) The Agency will begin an emergency action by notifying the lending institution by certified mail, with return receipt requested, of the emergency action and the basis on which the action is taken. The lending institution shall have an opportunity to show cause that the emergency action is unwarranted by submission of written documentation to the President and Chief Executive Officer. The effective date of the action shall be the date on which the notice is mailed to the lending institution.

(3) An emergency action may not exceed 30-calendar days unless a suspension, limitation or termination proceeding is begun under this section before the expiration of that period. In this case, the period may be extended until the completion of that proceeding, including an appeal to the Board.

(e) The following provisions deal with suspension, limitation or termination:

(1) The President and Chief Executive Officer may suspend the eligibility of a lending institution to participate in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs if the lending institution violates applicable laws, regulations, special arrangements or agreements. The suspension may not exceed 60-calendar days unless the lending institution and the President and Chief Executive Officer agree to an extension if the lending institution has not requested a hearing or the Agency begins a limitation or termination proceeding under this section.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to suspend the participant from the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of suspension shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the suspension notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the suspension, the suspension date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the lending institution that either the proposed suspension is dismissed or the suspension is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of suspension, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider all written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the suspension or to dismiss it and inform the President and Chief Executive Officer and lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of suspension, the Agency will send a notice to the lending institution which sets forth the effective date of the suspension.

(E) If the Agency begins a limitation or termination proceeding before the suspension period ends, the suspension period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the suspension so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116 (relating to pre-hearing conferences), at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(2) The President and Chief Executive Officer may limit the number or percentage of borrowers who may receive loan guaranties if the lending institution violates any applicable laws, regulations, special arrangements or agreements.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to limit the lending institution's participation in the Federal Stafford Loan, Federal

PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of limitation shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the limitation notice may request a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the limitation, the designated limitation date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review that material and notify the lending institution that either the proposed limitation is dismissed or the limitation is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of limitation, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the limitation or to dismiss it and inform the President and Chief Executive Officer and lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of limitation, the Agency will send a notice to the lending institution which sets forth the effective date of the limitation.

(E) If the Agency begins a termination proceeding before the limitation period ends, the limitation period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the limitation so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(3) The President and Chief Executive Officer may terminate a lending institution's eligibility to participate in the Federal Stafford Loan, Federal

PLUS Loan and Federal Consolidation Loan Programs if the lending institution violates applicable laws, regulations, special arrangements or agreements. Termination prohibits the future guaranty of Federal Stafford Loans, Federal PLUS Loans and Federal Consolidation Loans to borrowers applying through the lending institution.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to terminate the lending institution from the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of termination shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the termination notice may request in writing a hearing before the hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of termination, the designated termination date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the lending institution that either the proposed termination is dismissed or the termination is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of termination, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider all written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the termination or to dismiss it and inform the President and Chief Executive Officer and the lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of termination, the Agency will send a notice to the lending institution which sets forth the effective date of termination.

(E) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the termination so the United States Department of Education can take appropriate action.

- (v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.
- (f) A lending institution may lose its eligibility to participate in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs through other than emergency action, suspension, limitation or termination. This may occur under one or more of the following conditions:
- (1) Permanent closure of the lending institution.
  - (2) Action taken by the United States Secretary of Education under applicable Federal regulations to limit, suspend or terminate the lending institution's eligibility.
- (g) The Agency and the lending institution have the right to appeal the decision of the hearing examiner to the Board within 20-calendar days after the receipt or a copy of the decision, which shall be done by certified mail.
- (1) Written notice of appeal and the materials submitted in support shall be addressed to the Chairperson of the Board at the Agency's principal address, with a copy to the other party.
  - (2) The appealing party has 20-calendar days from the date of the notice of appeal to submit exceptions to the hearing examiner's decision and supporting briefs and statements.
  - (3) The opposing party has 20-calendar days from receipt of the appealing party's exceptions and brief to respond.
  - (4) When the Chairperson of the Board receives notice of an appeal, the Chairperson will place the appeal on the meeting agenda of the Board at a time in the future that the Board has received a record of the hearing and the briefs and supporting materials and has had an opportunity to review the record. Before issuing a final order, the Board of Directors will review the record and hearing examiner's decision and may order oral argument.
  - (5) Notice of a final order by the Board of Directors will be mailed promptly to the lending institution, the Agency and the United States Department of Education.
  - (6) The decision of the Board of Directors will become final upon mailing. Within 30-calendar days after the decision of the Board of Directors becomes final, the lending institution may file an appeal with Commonwealth Court.
- (h) A lending institution whose eligibility to participate was limited may not apply for removal of the limitation before the expiration of 12 months from the effective date of the limitation.
- (1) After the minimum limitation period, the lending institution may request removal of the limitation. The request shall be in writing and be supported by documented evidence that the institution has corrected the violations on which the limitation was based.



(2) Within 60-calendar days after receipt of the request, the President and Chief Executive Officer will respond to the lending institution by granting the request, denying the request or granting the request subject to other limitation.

(i) A lending institution whose eligibility to participate has been terminated may file a request for reinstatement 18 months after the effective date of the termination. To be reinstated, a lending institution shall:

(1) Demonstrate to the President and Chief Executive Officer's satisfaction that it has corrected the violations on which termination was based and repaid any funds which it had improperly received.

(2) Meet the requirements for participation in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.

(3) Enter into a new participation agreement with the Agency.

#### Authority

The provisions of this § 121.191 issued under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); and section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7).

#### Source

The provisions of this § 121.191 adopted October 16, 1987, effective October 17, 1987, 17 Pa.B. 4120; amended July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321. Immediately preceding text appears at serial pages (183526) to (183527).

#### Cross References

This section cited in 22 Pa. Code § 121.1 (relating to definitions).

### Subchapter L. URBAN AND RURAL TEACHER LOAN FORGIVENESS PROGRAM

Sec.

- 121.201. Application of existing Agency regulations.
- 121.202. Qualified applicant.
- 121.203. Loan forgiveness.
- 121.204. Teaching commitment.
- 121.205. Eligible public school districts.
- 121.206. State certification.
- 121.207. Classroom teaching.

#### Authority

The provisions of this Subchapter L amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July

1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7), unless otherwise noted.

**Source**

The provisions of this Subchapter L adopted July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321, unless otherwise noted.

**§ 121.201. Application of existing Agency regulations.**

The following higher education grant regulations contained in Subchapters A and B (relating to general provisions; and the State Higher Education Grant Program) apply to applicants in the Urban and Rural Teacher Loan Forgiveness Program:

- (1) Section 121.1 (relating to definitions).
- (2) Section 121.3 (relating to discrimination prohibited).
- (3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).
- (4) Section 121.6 (relating to denial of eligibility for financial assistance).
- (5) Section 121.7 (relating to notice of denial and preliminary review procedures).
- (6) Section 121.8 (relating to applicant and recipient appeals and hearings).

**§ 121.202. Qualified applicant.**

A qualified applicant in the Urban and Rural Teacher Loan Forgiveness Program shall be a person who meets the following requirements. The person:

- (1) Is certified by the Department of Education to teach in a preschool, elementary school or secondary school located in this Commonwealth.
- (2) Is in the first year of full-time, permanent classroom teaching at the time of application.
- (3) Is a classroom teacher at an eligible urban or rural public school district or at a nonprofit, nonpublic school in a district at which students may fulfill compulsory attendance requirements.
- (4) Has borrowed through the Agency-administered Federal Family Education Loan Programs.

**§ 121.203. Loan forgiveness.**

Qualified applicants who are selected for the Urban and Rural Loan Forgiveness Program in accordance with the policies established by the Agency are eligible for payment by the Agency of the PHEAA-approved indebtedness in the Agency-administered Federal Family Education Loan Programs, including interest charges, if the indebtedness is at least \$500. The indebtedness may not include loans advanced by relatives of the borrower and other individuals. For each academic year that the teaching commitment is fulfilled, and based upon the availability of funds, the forgiveness rate shall be the greater of either a maximum 25% of the PHEAA-approved indebtedness or the minimum annual payment

required in order to keep each PHEAA-approved loan in good standing. Forgiveness may not exceed \$2,500 for each year that the teaching commitment is fulfilled and no more than \$10,000 will be forgiven for any participant. The payment shall be made in accordance with the procedures established by the Agency.

**§ 121.204. Teaching commitment.**

Qualified applicants for the Urban and Rural Teacher Loan Forgiveness Program shall be required to submit documentation the Agency may require as proof that the individual:

- (1) Has spent the major portion of the school day during the school year teaching in a classroom at an eligible urban or rural school district.
- (2) Has received a satisfactory rating by the district or nonpublic school for the academic year.
- (3) Is in compliance with all other criteria for eligibility, as are legally promulgated and made available by the Agency on an annual basis.

**§ 121.205. Eligible public school districts.**

(a) A rural public school district shall be one that has a population of less than 300 per square mile and one of the following:

- (1) More than 8% of the pupils in average daily membership are low-income pupils as defined in section 2502.11 of the Public School Code of 1949 (24 P. S. § 25-2502).
- (2) The market value/income aid ratio, as defined in section 2501 of the Public School Code of 1949 (24 P. S. § 2501), is greater than 7/10.

(b) An urban public school district shall be one that has a population greater than 850 per square mile and one of the following:

- (1) More than 8% of the pupils in average daily membership are low-income pupils as defined in section 2502.11 of the Public School Code of 1949.
- (2) The market value/income aid ratio, as defined in section 2501 of the Public School Code of 1949, is greater than 7/10.

(c) The definitions in subsections (a) and (b) also apply to an intermediate unit or area vocational-technical school if the composite data for all participating school districts meet the criteria specified in this section.

**§ 121.206. State certification.**

For the purposes of the Urban and Rural Teacher Loan Forgiveness Program, State certification means Pennsylvania public school certification that qualifies a professional educator to provide classroom instruction in the grade level and content area specified for that certificate. State certification does not mean an Educational Specialist Certificate whose primary responsibility is to render professional service other than classroom teaching.

**§ 121.207. Classroom teaching.**

(a) For the purposes of the Urban and Rural Teacher Loan Forgiveness Program, classroom teaching means providing instruction in the grade level and content area specified on the teacher's State certificate and shall be for the major portion of the school day, which shall be at least 1/2 of the available periods used for instruction.

(b) Classroom teaching shall be on a full-time, permanent basis and does not include any form of substitute teaching.

**Subchapter M. AGRICULTURE EDUCATION LOAN FORGIVENESS PROGRAM**

Sec.

- 121.301. Definitions.
- 121.302. Application of existing agency regulations.
- 121.303. Qualified applicant.
- 121.304. Loan forgiveness.
- 121.305. Employment verification.
- 121.306. Eligible place of employment.

**Authority**

The provisions of this Subchapter M amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151); the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189); the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197); and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7), unless otherwise noted.

**Source**

The provisions of this Subchapter M adopted July 12, 1996, effective July 13, 1996, 26 Pa.B. 3321, unless otherwise noted.

**§ 121.301. Definitions.**

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

*Agricultural products*—Crops, livestock and livestock products, and commodities, including:

- (i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- (ii) Fruits, including apples, peaches, grapes, cherries and berries.
- (iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
- (iv) Horticultural specialties, including nurse stock, ornamental shrubs, ornamental trees and flowers.

(v) Cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs.

(vi) Timber, wood and other wood products derived from trees.

(vii) Aquatic plants and animals and their by-products.

(viii) Products derived from one or more of the items listed in subparagraphs (i)—(vii) and other products derived from the business of farming, including other products manufactured, derived or prepared from the products mentioned in subparagraphs (i)—(vii), raw or processed, which are used as food for humans or animals.

*Immediate family member*—A spouse, child, stepchild, parent, stepparent, grandparent, brother, stepbrother, sister, stepsister or like relative-in-law of an owner of real property.

*Mixed practice of veterinary medicine*—As described by the American Veterinary Medical Association, that type of clinical veterinary practice or consultation which deals with more than one categorical species, including, but not limited to, agricultural animals.

*United States Department of Agriculture Certification*—Certification by the United States Department of Agriculture that a graduate veterinarian has successfully passed an examination and is certified to sign health certificates allowing the interstate commerce of agricultural animals and animal products as well as the ability to certify regulatory testing such as bovine tuberculosis and brucellosis.

*Veterinary practice*—The practice in the field of veterinary medicine by a person qualified by educational training and experience in the science and techniques of veterinary medicine and who is currently licensed to practice veterinary medicine by the State Board of Veterinary Medicine under the Veterinary Medicine Practice Act (63 P. S. §§ 485.1—485.33).

#### Cross References

This section cited in 22 Pa. Code § 121.305 (relating to employment verification).

### § 121.302. Application of existing Agency regulations.

The following higher education grant regulations contained in Subchapters A and B (relating to general provisions; and the State Higher Education Grant Program) apply to applicants in the Agriculture Education Loan Forgiveness Program:

- (1) Section 121.1 (relating to definitions).
- (2) Section 121.3 (relating to discrimination prohibited).
- (3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).
- (4) Section 121.6 (relating to denial of eligibility for financial assistance).
- (5) Section 121.7 (relating to notice of denial and preliminary review procedures).
- (6) Section 121.8 (relating to applicant and recipient appeals and hearings).

**§ 121.303. Qualified applicant.**

A qualified applicant in the Agriculture Education Loan Forgiveness Program shall be a person who meets the following requirements. The person:

- (1) Is a resident of this Commonwealth.
- (2) Holds a degree in a field related to the production of agricultural products or in the field of veterinary medicine, from an institution of higher education located within this Commonwealth.
- (3) Is in the first year of full-time employment or work on a family farm or in the practice of veterinary medicine. A portion of this activity shall be for the protection and enhancement of agricultural animal health and productivity, on or after July 1, 1991.
- (4) Has borrowed through the Agency-administered Federal Family Education Loan Programs.

**§ 121.304. Loan forgiveness.**

Qualified applicants who are selected for the Agriculture Education Loan Forgiveness Program in accordance with the policies established by the Agency shall be eligible for payment by the Agency of the PHEAA-approved indebtedness in the Agency-administered Federal Family Education Loan Programs, including interest charges, if the indebtedness is at least \$500. The indebtedness may not include loans advanced by relatives of the borrower and other individuals. For each year that the participant is employed full time on a family farm or works full time on a family farm, a portion of which shall be located within this Commonwealth, or is engaged in the mixed practice of veterinary medicine within this Commonwealth, a portion of which activity shall be for the protection and enhancement of agricultural animal health and productivity, and who has obtained United States Department of Agriculture certification, and based upon the availability of funds, the repayment shall be up to \$2,000 per year. Forgiveness may not exceed \$2,000 for each year that the employment is fulfilled and no more than \$10,000 will be forgiven for any participant. The payment shall be made in accordance with the procedures established by the Agency.

**§ 121.305. Employment verification.**

Qualified applicants selected for the Agriculture Education Loan Forgiveness Program shall be required to submit documentation the Agency may require as proof that the individual has spent at least 35 hours per week working full time on a family farm or a family farm corporation, and is in compliance with all other criteria for eligibility as are annually made public by the Agency. The veterinarian shall provide proof that he is accredited by the United States Department of Agriculture/Animal, Plant, Health Inspection Service to perform accredited tasks in this Commonwealth and show that a portion of the applicant's activities are devoted to farm animals and are consistent with the American Veterinary Medi-

cal Association definition of “mixed practice of veterinary medicine” (see § 121.301 (relating to definitions)). The veterinarian shall also be in compliance with the other criteria for eligibility.

**§ 121.306. Eligible place of employment.**

For the purposes of the Agriculture Education Loan Forgiveness Program, a family farm shall be the real property of a farm owned by members of an immediate family or by a family farm corporation used for the production, for commercial purposes, of agricultural products. A family farm corporation shall be a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the immediate family.

**Subchapter N. EARLY CHILDHOOD EDUCATION PROFESSIONAL  
LOAN FORGIVENESS PROGRAM**

Sec.

- 121.401. Application of existing agency regulations.
- 121.402. Qualified applicant.
- 121.403. Loan forgiveness.
- 121.404. Employment.
- 121.405. Approved child-care facility.
- 121.406. Lottery.

**Authority**

The provisions of this Subchapter N amended under section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546 (1965), No. 541) (24 P. S. § 5151); The Institutional Assistance Grants Act (24 P. S. §§ 5181—5189); the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198—5198.7), unless otherwise noted.

**Source**

The provisions of this Subchapter N adopted August 4, 2000, effective August 5, 2000, 30 Pa.B. 3924, unless otherwise noted.

**§ 121.401. Application of existing agency regulations.**

(a) The following higher education grant sections contained in Subchapter A (relating to general provisions) apply to applicants in the Early Childhood Education Professional Loan Forgiveness Program:

- (1) Section 121.1 (relating to definitions).
- (2) Section 121.3 (relating to discrimination prohibited).
- (3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).
- (4) Section 121.6 (relating to denial of eligibility for financial assistance).

(5) Section 121.7 (relating to notice of denial and preliminary review procedures).

(6) Section 121.8 (relating to applicant and recipient appeals and hearings).

**§ 121.402. Qualified applicant.**

A qualified applicant in the Early Childhood Education Loan Forgiveness Program is a person who meets the following requirements:

(1) Has successfully completed an undergraduate program at an accredited college or university.

(2) Has a bachelor's degree and has obtained Pennsylvania State Early Childhood Education Certification (nursery through third grade), or an associate's degree in Early Childhood or Child Development.

(3) Has borrowed through the Agency-administered Guaranteed Student Loan Programs.

(4) Is a resident of this Commonwealth.

(5) Executes a sworn affidavit, under penalty of perjury, that he does not have a delinquent payment owing to any Commonwealth agency.

(6) Receives an annual salary of less than \$18,500 for the employment period for which loan forgiveness is requested.

(7) Has submitted a completed application by the filing deadline designated by the Agency.

**Cross References**

This section cited in 22 Pa. Code § 121.406 (relating to lottery).

**§ 121.403. Loan forgiveness.**

Qualified applicants who are selected for the program in accordance with the Early Childhood Loan Forgiveness Act (24 P. S. §§ 7101—7106) are eligible for payment by the Agency of a portion of the debt incurred by the applicant through the Agency-administered Guaranteed Student Loan Programs for the education necessary to successfully complete the specified bachelor's degree or associate's degree programs.

(1) For each 12-month employment period designated by the Agency that the applicant is a full-time professional in an approved Commonwealth child-care facility, the Agency may forgive a proportional part of the applicant's loan so that the loan may be entirely forgiven over 4 years of full-time employment in an approved child-care facility.

(2) For a graduate with a bachelor's or associate's degree in the specified areas, no more than \$2,500 shall be forgiven in any year, and no more than \$10,000 shall be forgiven for any applicant.

(3) Payments shall be made to the lender/servicer in March and September.

(4) A loan forgiveness award may not be made for a loan that is in default at the time of the application.



**§ 121.404. Employment.**

An applicant selected for the Early Childhood Education Professional Loan Forgiveness Program is required to submit documentation the Agency may require as proof that those child-care professionals are working as full-time professionals in approved child-care facilities in this Commonwealth for the 12-month employment period designated by the Agency for loan forgiveness. Each child-care professional is required to submit documentation of eligibility as the Agency may require.

**§ 121.405. Approved child-care facility.**

An “approved child-care facility” is defined as a child day-care center or group day-care home located in this Commonwealth which is subject to and in compliance with 55 Pa. Code (relating to public welfare).

**§ 121.406. Lottery.**

(a) Loan forgiveness awards shall be made to the extent that funds are appropriated by the General Assembly and are sufficient to cover administration of the program. If funding is insufficient to fully fund administration and eligible applicants, the Agency shall utilize a random lottery system for determining which applicants receive loan forgiveness awards.

(b) When a random lottery is required, the lottery shall include only those records that are complete and eligible in accordance with § 121.402 (relating to qualified applicant) at the time the lottery is conducted.

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