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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 575
HIGHER EDUCATION COORDINATING COMMISSION
OFFICE OF STUDENT ACCESS AND COMPLETION

FILED

09/23/2020 6:50 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Oregon Promise Grant Program Eligibility for Foster Children

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/28/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Karen Howard
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/19/2020

TIME: 2:00 PM - 3:00 PM

OFFICER: Karen Lynne Howard

ADDRESS:

Teleconference

N/A, OR 0

SPECIAL INSTRUCTIONS:

This public rules hearing will be conducted by teleconference only. The meeting is open to the public: Please dial 888-363-4735 and enter the access code 5789157 followed by the # sign. As the presiding officer of the hearing, I will ask for each public participant to state their name, address, and affiliation. Please email me at

karen.lynne.howard@hecc.oregon.gov
scanned copies any written materials you would like to submit related to the rules for the meeting and for record. Please also send hardcopy written materials to: Higher Education Coordinating Commission, 3225 25th St SE, Salem, OR 97302.

NEED FOR THE RULE(S):

SB 1605 adds language to the statute (ORS 341.522) to increase access to the Oregon Promise program for foster children in out-of-state placements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 1605 (Enrolled), OLIS (<https://olis.oregonlegislature.gov/liz/2020S1/Measures/Overview/SB1605>)

FISCAL AND ECONOMIC IMPACT:

No fiscal impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No impact. The proposed rules affect agency operations only. No activities. Minimal amount of additional administrative costs required. This will be absorbed by the agency at current spending level.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses are not recipients of financial aid, and were not consulted.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Commission has a standing financial aid advisory committee it may consult as needed.

RULES PROPOSED:

575-039-0010, 575-039-0020, 575-039-0030, 575-039-0040, 575-039-0050, 575-039-0060, 575-039-0070, 575-039-0080, 575-039-0090, 575-039-0110, 575-039-0120, 575-039-0140, 575-039-0150

AMEND: 575-039-0010

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0010

Definitions ¶¶

(1) "Concurrently Enrolled." A student who attends more than one eligible institution under a written consortium agreement or concurrent enrollment program. The student's "home" institution determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.¶¶

(2) "Correctional facility." Any place used for the confinement of young persons, youth or youth offenders or persons charged with or convicted of a crime or otherwise confined under a court order, including a:¶¶

(a) Youth correction facility;¶¶

(b) Detention facility;¶¶

(c) Department of Corrections institution;¶¶

(d) Local correctional facility; or¶¶

- (e) State hospital or a secure intensive community inpatient facility, with respect to persons detained therein who are youth or youth offenders, who are charged with or convicted of a crime or who are detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.370 or having been found responsible except for insanity under ORS 419C.411.¶
- (3) "Date of First Release." Date when the person is released from a correctional facility, immediately following the period of custody or incarceration when the person completes the highest level of education as described in 575-039-0020, subsection (2), as determined by the agency responsible for the release from custody or incarceration.¶
- (4) "Department of Corrections institution." Defined by ORS 421.005.¶
- (5) "Dependent/Independent Student." The definition of dependent/independent student shall be the definition used for the student aid programs under Title IV of the Higher Education Act of 1965 as amended.¶
- (6) "Detention facility," "young person," "youth" and "youth offender." Defined by ORS 419A.004.¶
- (7) "Fees." Fees are the standard fees charged to all students.¶
- (8) "Foster care." substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from the child's parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.¶
- (9) "Foster child." A child over whom the Department of Human Services retained jurisdiction under ORS 417.200 for the duration of the child's placement in foster care outside the state of Oregon, and who, on or after July 7, 2020, completes a high school diploma or credential substantially similar to those listed in OAR 575-039-0020, as determined by the commission while placed in out-of-state foster care.¶
- (10) "Full-Time Enrollment." Registration and payment of required fees as a full-time student, at an eligible institution or combination of eligible institutions, based on a minimum of 12 credit-hours per academic term. Students attending more than one eligible institution must meet the definition of concurrently enrolled as defined in OAR 575-031-0005(78) to be considered enrolled full time.¶
- (911) "Half-Time Enrollment." Registration and payment of required fees as a half-time student, at an eligible institution or combination of eligible institutions, based on 6 to 11 credit-hours per academic term.¶
- (102) "Local correctional facility." Defined by ORS 169.005.¶
- (143) "Resident of Oregon." For purposes of the Oregon Promise Grant, residency is established by virtue of the student (in the case of independent students) or the student's parent (in the case of dependent students) having been in continuous residency in this state for the 12 months preceding enrollment in an eligible program at a community college in Oregon.¶
- (a) A dependent resident student whose Oregon domiciled parent(s) move out-of-state shall retain resident classification as long as the student is continuously enrolled at an Oregon high school or Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;¶
- (b) An independent resident student shall retain resident classification as long as the student is continuously enrolled at an Oregon postsecondary institution. Continuous enrollment is defined as completion of an academic year within any 12-month period;¶
- (c) A dependent student whose parent(s) are serving on active duty in the U. S. Armed Forces outside the State of Oregon shall have residency status determined by the parents' declared "home of record".¶
- (d) A student from a state other than Oregon, or from the Federated States of Micronesia, who is receiving or is eligible to receive financial assistance through the government of that state or the Federated States, shall not be considered a resident of Oregon;¶
- (e) Eligibility for certain scholarships administered by the Commission does not necessarily qualify a student as an Oregon resident for the purposes of the Oregon Promise grant.¶
- (f) Students who are enrolled members of federally recognized tribes of Oregon or who are enrolled members of a federally recognized Native American tribe which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon may be deemed eligible for this program, regardless of state of residence, if they meet all other eligibility criteria. For this purpose,

federally recognized tribes are those listed in OAR 575-030-0005(1)(f).¶

(124) "Tuition." Tuition is the amount charged to a student for a course and is based upon the number of credit hours for which the course is offered.¶

(135) "Youth correction facility." Defined by ORS 420.005.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0020

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0020

Student Eligibility for Oregon Promise Grant ¶

To be eligible for an Oregon Promise Grant a student must:¶

- (1) Be an Oregon resident for at least 12 months prior to enrolling in an Oregon community college, unless such student is foster child;¶
- (2) Have attained the highest level of education in this state prior to receiving a high school diploma under ORS 329.451, or earned a General Educational Development (GED) certificate at an Oregon testing center under ORS ~~354.7680,175~~, or completed grade 12 while home schooled in Oregon under ORS 339.035, unless such student is a foster child;¶
- (3)(a) Have earned a cumulative high school grade point average of 2.5 or its equivalent or better;¶
(b) The Commission will determine if a student who does not earn a cumulative grade point average of 2.5 or better in high school may otherwise demonstrate an equivalent academic ability. In making such a determination, the Commission may rely on such documentation as required by the Commission that indicates but not for actions taken by a school district responsive to state declarations of emergency or executive orders issued by the Governor, or local declarations, the student would have otherwise met the grade point average requirement.¶
- (4) Meet one of the following ~~two~~three criteria:¶
(a) Within 6 months of high school (or equivalent GED or homeschool) completion date, enroll in approved courses at an Oregon community college; or¶
(b) If the student completes high school (or equivalent GED or homeschool) on or after January 1, 2020 while they are in custody or incarceration at a correctional facility, they must enroll in approved courses at an Oregon community college within 6 months of the date of first release from a correctional facility.¶
(c) If the student is a foster child and the completion of such foster child's high school diploma or credential substantially similar to those listed in OAR 575-039-0020, as determined by the commission, occurred while such foster child was placed in a treatment program.¶
(d) The Commission may waive the requirements of subsection 4(a), 4(b), and 4(c) of this rule provided a student demonstrates a significant hardship. A student who, for the purpose of meeting the requirement of either subsection 4(a), 4(b), and 4(c) would have been required to enroll in approved courses at an Oregon community college during the spring term of the 2019-2020 academic year, but does not enroll or enrolls less than half-time, is deemed to have demonstrated a significant hardship due to the issuance of a declaration of emergency and related executive orders by the Governor restricting the operations of Oregon community colleges, and shall retain eligibility to receive a grant if the student meets or receives any applicable waivers for all other requirements and enrolls in approved courses at an Oregon community college no later than the fall term of the 2021-2022 academic year.¶
- (5) Have completed a Free Application for Federal Student Aid (FAFSA), if eligible to file the application, and accepted all state and federal grant aid offered; and¶
- (6) Have not completed more than 90 credit hours, or the equivalent, at a post-secondary institution of education or a curriculum, degree or program.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0030

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0030

Institutional Eligibility ¶

Eligible institutions are any Oregon community college operated under ORS chapter 341.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0040

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0040

Eligible Courses and Programs ¶¶

(1) Oregon Promise Grants may be awarded to students who are enrolled in courses at an Oregon community college that are required for completion of:¶¶

(a) An associate degree; or¶¶

(b) A program in career and technical education.¶¶

(2) Eligible courses include those developmental education courses that are required for an eligible certificate or degree program or that are prerequisites to required courses in an eligible program.¶¶

(3) To receive an Oregon Promise Grant, a student must be enrolled in an eligible program as identified by the Commission and determined by the institution the student attends.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0050

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0050

Enrollment ¶

A student must be enrolled or accepted for enrollment as at least a half-time undergraduate student at an eligible institution to receive Oregon Promise grant funds.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0060

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0060

Oregon Promise Grant Amount ¶¶

(1) The total amount of an Oregon Promise Grant award will be based on the number of credit hours in approved courses that the student attempts each term. For each academic term, the student's grant award will be reduced by a copayment of \$50 and any amounts received in state and federal grants.¶¶

(2) The maximum grant award available to an eligible a student for a full academic year will be an amount that equals:¶¶

(a) No less than \$1,000 or the actual cost of tuition, whichever is less; and¶¶

(b) No more than the average cost of tuition at a community college in this state, as determined by the office, or the actual cost of tuition, whichever is less.¶¶

(3) Grant award amounts will be prorated for a student who is enrolled in approved courses for a sufficient number of credit hours to be considered enrolled at least a half-time but less than full time.¶¶

(4) Cost calculations each academic term shall include only the amount of tuition charged to the student for credits attempted. Fees will not be included.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0070

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0070

Conditions of Award ¶¶

(1) In order to remain eligible for an Oregon Promise award, continuing students must:¶¶

(a) Maintain a cumulative grade point average of 2.5 or better each term for which the student receives the grant, unless the student receives a waiver as established in subsection (8) of this section.¶¶

(b) Make satisfactory academic progress in an approved program, as defined by the institution in accordance with federal Title IV regulations and guidelines.¶¶

(c) Enroll for a sufficient number of credits to be considered at least a half-time student, except that the Commission may waive the half-time enrollment requirement for continuing students who are either enrolled, but for fewer than six credits, or who are not enrolled during a given term provided such term of enrollment begins or ends during a period where there exists an active declaration of emergency or executive order restricting the operations of institutions of higher education.¶¶

(2) A student continues to remain eligible to receive an Oregon Promise Grant until the student has completed more than 90 credit hours attempted at an eligible Oregon community college, or the equivalent at a postsecondary institution of education, including those postsecondary credit hours attempted while the student is enrolled in high school.¶¶

(3) The Commission may deny renewal of an award to any student failing to make satisfactory academic progress as defined by the institution.¶¶

(4) No Oregon Promise Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.¶¶

(5) An Oregon Promise Grant recipient shall sign a statement of Selective Service Registration Compliance in conformity with the requirements of Title IV student aid programs, if applicable.¶¶

(6) An Oregon Promise Grant recipient must be enrolled in an eligible program as defined by the Commission.¶¶

(7) A student who fails to maintain a cumulative grade point average of 2.5 or better during each term for which the student has received a grant may request that the requirement be waived by the office according to rules adopted by the Commission.¶¶

(8) Notwithstanding any other provisions that provide for a waiver process, a student that fails to meet the requirements of subsections (1)(a) and of this section, or who fails to meet the requirement of ORS 341.522(6)(a)(D) related to a first-year experience may remain eligible to receive an award in the following term if the student is unable to meet the requirement due to actions taken by an institution related to declarations of emergency or executive orders, or due to institutional actions in response to significant enrollment declines caused by the issuance of such declarations or orders. The Commission may only waive the requirements for terms beginning or ending while such declarations or orders are in effect, as determined by the Commission.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0080

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0080

Prioritization of Grant Recipients ¶¶

(1) The Commission may prescribe the priority by which grants are awarded, which allows for preference to be given to persons enrolled in school districts or high schools that meet specified criteria as determined by the Commission.¶¶

(2) Prior to the start of the fall term of each academic year, the Commission shall determine whether there are sufficient moneys to award a grant to each person who meets the eligibility criteria described in OAR 575-039-0020. On the basis of this determination, the Commission may limit eligibility to receive a grant to a person whose family contribution, is at or below the level the Commission determines is necessary to allow the Commission to operate the Oregon Promise program with available moneys. In setting a limitation on eligibility and setting eligibility limits, the Commission shall consider:¶¶

(a) The amount of funds allocated to the Oregon Promise program for the biennium;¶¶

(b) The estimated costs of awarding eligible students in prior-year cohorts who have not yet exceeded the program's 90-credit limit;¶¶

(c) The estimated costs of awarding new eligible applicants during both years of the biennium each academic year, assuming a liability of up to 90 credits, which may extend beyond two years;¶¶

(d) The anticipated tuition changes at the Oregon Community Colleges; and¶¶

(e) The sustainability of the program to accommodate current and future cohorts within the biennium.¶¶

(3) The Commission may reduce or eliminate any limitation on eligibility previously imposed by the Commission under (2) of this subsection.¶¶

(4) For purposes of this section, "family contribution" is the same as a student's Expected Family Contribution.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0090

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0090

Disbursement of Grant Funds to Students ¶¶

- (1) Institutions shall disburse grants to students identified by the Commission from funds provided by the Commission each academic term.¶¶
- (2) Institutions shall not disburse grants to students who cease to meet conditions of award identified by the Commission.¶¶
- (3) If, as a result of an institutional error, grants are disbursed to ineligible students, to students in ineligible programs, or to students for an inappropriate number of terms, the institution shall reimburse the State of Oregon the full amount of monies erroneously disbursed.¶¶
- (4) Institutions shall disburse grants to eligible students within a time schedule established annually by the Commission.¶¶
- (5) Institutions shall submit regular reports to the Commission regarding disbursements made to eligible students on a schedule determined by the Commission.¶¶
- (6) Institutions shall refund unused grant funds to the Commission within a time schedule established annually by the Commission.¶¶
- (7) A person who fails to maintain the cumulative grade point average of 2.5 becomes ineligible to receive a grant for the term after which the person fails to maintain the cumulative grade point average, unless the eligibility requirement is waived by the Office of Student Access and Completion according to rules established by the Commission. The institution the student attends will determine the student's eligibility for a waiver and will submit a waiver request to the Office for consideration and approval according to a process established by the Office.¶¶
- (8) Generally, a disbursement may not be made to a student who is no longer eligible. An otherwise eligible student becomes ineligible for an Oregon Promise Grant on the date that the student is no longer enrolled at the institution for the award year. With Commission approval, institutions may make late disbursements of retroactive awards for prior academic terms up to 60 days after the close of the year-end account reconciliation process or up to 60 days after the end of the student's period of enrollment, whichever is earlier.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0110

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0110

Record Keeping ¶¶

(1) Each institution shall maintain sufficient records to document its activities relating to the program.¶¶

(2) Each institution shall make its academic and financial records available to the Commission at reasonable times for the purpose of assuring that the institution is complying with the rules relating to the administration of the program.¶¶

(3) Institutions shall retain the academic and financial records relevant to a disbursement of state grant funds for not less than three years following the end of the fiscal year in which that disbursement occurs.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0120

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0120

Rights of Appeal ¶¶

(1) An institution shall have the right to appeal to the Commission in the instance of a disagreement with a policy or procedure of the Commission or its staff. In such case, the decision of the Commission is final unless a court of competent jurisdiction orders to the contrary.¶¶

(2) A student who is denied participation in the Oregon Promise program may appeal the denial to the Commission. The appeal shall be submitted in writing a minimum of ten days before the meeting at which the appeal is to be considered.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0140

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0140

Application Process ¶¶

(1) Applicants must complete and submit the Free Application for Federal Student Aid, if eligible for federal student aid programs. Applicants who are not eligible for federal financial aid because of their citizenship status must complete the Oregon Student Aid Application, which is the alternate need analysis form that has been approved by the Commission.¶¶

(2) Applicants must submit the Oregon Promise application, which has been designated for this purpose by the Commission, and grade transcripts as specified in the Oregon Promise application.¶¶

(3) Applications must be filed during the timeframe established by the Commission.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522

AMEND: 575-039-0150

RULE SUMMARY: Permanent Administrative Rule change to reflect enrollment of SB 1605 (2020 special session)

CHANGES TO RULE:

575-039-0150

Requirements for Dually Enrolled Students ¶

The Commission will prescribe eligibility requirements and grant calculations for students dually enrolled in a community college and a public university.¶

(1) For the Oregon Promise Grant, a dually enrolled, or co-enrolled, student is a student who attends more than one eligible institution during the same academic term or year under a written consortium agreement or concurrent enrollment program. The student's "home" institution is the institution that grants a certificate or degree upon the student's completion of an eligible program of student. It is the institution that determines the student's eligibility for federal and state financial aid, disburses funds to the student, and is responsible for reporting enrollment and disbursement information to the Commission.¶

(2) For students who are dually enrolled in two or more community colleges, the Oregon Promise grant award will be based on the tuition charged by the student's "home" institution or the average tuition charged by all community colleges, whichever is lower.¶

(3) For students who are dually enrolled in a pathways program between an Oregon community college and an Oregon public university, the Oregon Promise grant award will be based on the enrollment status and tuition charged only for courses taken at the community college.

Statutory/Other Authority: ORS 341.522

Statutes/Other Implemented: ORS 341.522