

Potential Changes to Workforce Pell Regulations Submitted by Tonjua Williams

Here are additional changes from the Public Higher Education Institutions:

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- **Stackable and Portable / Credit in Another Program:** The regulations do not clarify how the “stackable” requirement in 690.93(a)(3) interacts with the “credit in another program” requirement in 690.93(a)(4). At the same time, there is confusion over what “stackable” and “portable” means, as it is undefined terms. “Stackable” and “credit in another program” are very similar, if not the same concepts, yet they are treated differently in the two subsections. First, the lack of a definition for “stackable” can be remedied by essentially equating it with the “credit in another program” requirement. Second, if the two concepts are basically the same, the exception for occupations with only one recognized credential should apply to both the “stackable” requirement and the “credit in another program” requirement. Third for “portable” we need to clarify if it means portable as transferrable to other institutions or portable as access for upward mobility to various employers.

One option for addressing this in the regulations is to add new subparagraphs 690.93(a)(5) and (6) as follows:

(5) A program that meets the requirements of subparagraph (4) is considered to be “stackable” for the purposes of subparagraph (3).

(6) The requirements described in subparagraph (4) do not apply to programs described in subparagraph (3)(ii).

- **Portable Credit, there are two definitions:**

The regulations do not provide a definition for portable credit as outlined in regulation 690.93 subsection (c) (iii). A written policy for determining if a credential is stackable and portable that establishes documented connections to additional credentials, consider real-time labor market information, and includes a process for employer validation; (pg 24) ..

As it relates to workforce Pell, there are two definitions for consideration:

1. Portable across multiple employers: The credential, skills, or training a student receives must be recognized and valued by more than one employer in a given industry, allowing the student to move between jobs or employers without their qualification becoming irrelevant. The only exception is for

occupations where there is only one recognized postsecondary credential (e.g., a specific type of license).

2. Portable to further education: The academic credits earned in the short-term program must be accepted toward the requirements of an additional certificate or degree program at the same or a different institution, should the student choose to pursue further education later (often referred to as being "stackable").

One option to address the definition for "portable" as outlined 690.93 subsection (c) (iii) are as follows: clarify the definition. Once defined, revise language accordingly.

- **Program Offered for at Least One Year**: The draft regulations require institutions to provide to ED documentation that the program has been in existence for at least one year from the date that the governor determined the program met the regulatory requirements that the states oversee. We appreciate the clarification by the department that the draft regulations are meant to convey that programs must have been in existence for one year starting on the date that on which the governor determines the program first met the regulatory requirements, not from the date that the governor makes this determination. However, even with this understanding, the regulations incorporate a requirement that the program must have met all the requirements detailed in 690.93(a) before the one-year clock begins. This is well beyond the language and intention of the statute, which simply requires that a program need to have been offered for at least one year. Congress could have easily written language requiring a program to meet all statutory and regulatory requirements for one year before it could be eligible, but it did not.

To bring the regulations in line with the statute in this area, 690.94(a)(1) should be modified to read as follows:

§ 690.94 Components determined by the Secretary

a. After the Governor determines that the program meets the requirements under 34 CFR § 690.93, the institution must submit to the Secretary documentation that–

1. **The program has been offered by the institution for not less than 1 year.** ~~The program has been in existence for at least one year from the date that the Governor determines that the program met the regulatory requirements.~~ The Secretary considers a program to have been in existence for at least one year if the eligible workforce program has met the conditions under 34 CFR § 690.92(a) and (b) ~~and 34 CFR § 690.93(a)~~ for at least one year.

- **Placement Rates:** The draft regulations require, as in the statute, that a program has a 70% completion rate (within 150% of normal time to completion) and a 70% job placement rate as computed by the state. For award years 2026-27 and 207-28 (and in some cases one additional year), the job placement rate is calculated as the percentage of students who are employed in the second quarter after exiting the program. In subsequent award years, the job placement rate is calculated as the percentage of students who are employed in an occupation for which the program prepares students or a comparable high-wage, high-skill or in-demand occupation. The job placement rate calculation beyond the first two years adds an “in-field” component that is not included in the statute. Adding this requirement creates numerous problems, primarily because state administrative records often lack this information. Also, there is no guidance on what constitutes a “comparable” occupation to the one for which the WP program prepares students. The lack of an “in field” requirement in the statute is not accidental. Congress sometimes includes this requirement and sometimes does not, and in this case it chose not to. For example, a version of the WIOA reauthorization legislation that Congress nearly passed in 2024 added an “in-field” requirement to that statute’s placement metric. However, Congressional authorizers eventually rejected this change and it was not included in the final version of the legislation. For these reasons, we believe that the regulations exceed Congressional authority by adding this requirement.

To remedy this situation, 690.94(a)(2) should be modified to read in its entirety as follows:

- 2. The program meets placement and completion rate requirements as determined through a certification from the Governor, based on the Governor's analysis using administrative data, including wage records, that the eligible workforce program meets the following standards-**
- (i) A completion rate of at least 70 percent, within 150 percent of the normal time to completion; and**
 - (ii) A job placement rate of at least 70 percent, calculated as the percentage of students that are employed during the second quarter after exiting the program.**

~~(2) The program meets placement and completion rate requirements—~~

~~(i) For the 2026-27 and 2027-28 award years only, as determined through a certification from the Governor, based on the Governor's analysis using administrative data, including wage records, that the eligible workforce program meets the following standards—~~

~~(A) A completion rate of at least 70 percent, within 150 percent of the normal time to completion; and~~

~~(B) A job placement rate of at least 70 percent, calculated as the percentage of student that are employed during the second quarter after exiting the program;~~

~~(ii) For each award year after the 2027-28 award year—~~

~~(A) A completion rate of at least 70 percent, within 150 percent of the normal time of completion, as determined under 34 CFR 668.8 (f); and~~

~~(B) A job placement rate of at least 70 percent, calculated as the percentage of students who are employed in the occupation for which the program prepares students (as identified through the process established under 34 C.F.R. 690.93 (b)) or a comparable high-skill, high-wage, or in-demand occupation during the second quarter after successfully completing the program, as determined through a certification from the Governor, based on the Governor's analysis using available administrative data, including wage records.~~