

Public Comments

Received on October 29, 2009

COMMENTS TO PROPOSED RULES

FROM: Various Members of the Arkansas Lottery Commission Legislative Oversight Committee

TO: Department of Higher Education; Arkansas Higher Education Coordinating Board

DATE: October 29, 2009

SUBJECT: Proposed Arkansas Academic Scholarship Program Part I and Part II Rules

The following comments made by various members of the Arkansas Lottery Commission Legislative Oversight Committee are submitted for public comment:

1. See the attached chart containing comments to the Proposed Arkansas Academic Scholarship Program Part I (Nontraditional) Rules and Regulations.
2. The criteria for determining eligibility on the basis of financial need in the prioritization process for nontraditional students should be removed as the legislature intentionally did not make financial need a consideration for scholarship eligibility.
3. "Incarceration" should be defined in the rules, with respect to incarceration making a student ineligible for the scholarship.
4. How the Department of Higher Education will determine and enforce the disqualifiers for eligibility such as incarceration and the drug-free pledge should be set out in the rules.
5. The students who are currently in college should be taken out of the "earn-in" category in the rules for nontraditional students and a new category of "current achievers" created, at least until the "current achievers" complete their degrees.

COMMENTS ON PROPOSED RULES FOR LOTTERY SCHOLARSHIP / NONTRADITIONAL STUDENTS

| LAW | RULE | CONFLICT | RESOLUTION |
|---|--|---|--|
| <p>A.C.A. § 6-85-206(1)(A) :</p> <p>The applicant has been an Arkansas resident for at least the twelve (12) months immediately preceding the date the applicant will enroll in an approved institution of higher education, and if the applicant is less than eighteen (18) years of age, a parent or guardian of the applicant or a combination of the applicant and a parent or guardian of the applicant has maintained Arkansas residency for the same period of time.</p> | <p>Page 1, I(B)</p> <p>The applicant shall have been a resident of the State of Arkansas for at least (12) months ... if the applicant is less than eighteen (18) years of age, a parent or guardian(s) of the applicant shall have maintained Arkansas residency for the same period of time.</p> | <p>The rule omits the law's provision for a residency requirement for combined student/parent residency if student is under 18</p> | <p>Have already communicated this to Tara. She made a change in the definition section but has not changed it here.</p> |
| <p>A.C.A. § 6-85-208:</p> <p>(a) An applicant is eligible as a nontraditional student if ... the applicant:</p> <ol style="list-style-type: none"> (1) Graduated from an Arkansas high school and achieved a 2.5 high school grade point average; (2) Had a minimum composite score of nineteen (19) on the ACT or the equivalent score on an ACT equivalent; or (3) Has completed at least twelve (12) semester hours of courses granting three (3) or more hours of credit at an approved institution of higher education and earned a postsecondary grade point average of at least 2.5. <p>(b) To be eligible, a nontraditional student applicant who graduated from a private high school, an out-of-state high school, or a home school high school shall have achieved a minimum composite score of nineteen (19) on the ACT or the</p> | <p>Page 5, IV</p> <p>This rule section provides for prioritizing the nontraditional student applicants according to multiple classifications of nontraditional students - SEE CHART BELOW.</p> | <p>Generally, this seems to be more complex than necessary and contrary to the legislative intent that the lottery scholarship application process be easy for students and parents to understand. We went from three (3) eligibility requirements to an additional six (6) classifications [three for 2-year colleges and three for 4-year colleges] and an additional twenty-six (26) total criterion.</p> <p>Once a student meets the criteria of:</p> <ul style="list-style-type: none"> • Arkansas High School GPA of 2.5; • ACT of 19; or | <p>Ask the ADHE to eliminate the additional three classifications and utilize the system of "nontraditional" as it is intended in the law and the "current achievers" as proposed in the legislation drafted for Representatives Burris and Roebuck.</p> <p>Clarify definitions for "nontraditional" as proposed in the drafted legislation.</p> |

| LAW | RULE | CONFLICT | RESOLUTION |
|---|---|---|------------|
| <p>equivalent score on an ACT equivalent.</p> | <p>A.C.A. § 6-85-212(e)(2):</p> <p>(2)(A) The Department of Higher Education shall award an aggregate amount of scholarship awards to nontraditional students beginning with the 2010-2011 academic year up to eight million dollars (\$8,000,000).</p> <p>(B) Priority for scholarships awarded to nontraditional students is <u>based on the applicant's level of progress toward completion of a certificate, an associate degree, nursing diploma, or a baccalaureate degree, or on other criteria established by the department.</u></p> | <ul style="list-style-type: none"> • 12 hrs earned with college GPA of 2.5, <p>then the student is classified as "delayed", "returning", or "earn-in". Those classifications are not in the law.</p> <p>The "<u>earn-in</u>" definition proposed by ADHE includes students who entered college as <u>traditional</u> students, but before the lottery scholarship was created.</p> <p>The "<u>does not need remediation</u>" criterion could eliminate most nontraditional students contemplated by the law - particularly those who are by the ADHE's definitions, delayed or returning students.</p> <p>The "<u>financial need</u>" criterion is contrary to the legislative intent for the scholarship in that the General Assembly specifically did not include any financial need requirements for this scholarship.</p> <p>The "<u>workforce / critical need area program</u>" criterion only applies to certain classifications. Although this is within the ADHE's authority, why wouldn't it apply to all</p> | |

LAW

RULE

CONFLICT

RESOLUTION

classifications?

A.C.A. § 6-85-215:

(a)(1)(A) A student receiving any state-supported student financial assistance for which an institution of higher education is required to provide information under this section shall complete and sign a consent form authorizing the release of the student's individual personal information to the Bureau of Legislative Research and authorizing:

(i) The institution of higher education to provide the bureau with academic progress information for the scholarship recipient; and

(ii) The department to release the student's individual personal information to the bureau.

(B) If a student is less than eighteen (18) years of age, the student's parent or guardian shall complete and sign the consent form.

(2)(A) The student may opt out of the release of information. A decision to opt out applies only to the release of information under this section and does not apply to information released under any other section of this subchapter or under any other law.

(B) In order to provide better statistical data, each institution shall report the number of students who opt out.

Pages 7-8

The ADHE will request that a student, or the recipient's parent or guardian(s) if the recipient is less than 18 years of age, receiving state-supported student financial assistance complete and sign a consent form opting-in or opting-out of authorizing the release of the student's individual information to the Bureau of Legislative Research. If a recipient or recipient's parent or guardian fails to complete the consent form, that recipient will be opted-out of releasing information to the Bureau of Legislative Research. Opting-out of the release of information to the Bureau of Legislative Research will not affect a student's eligibility for financial aid.

The law requires -- using "shall" -- the student to sign the consent form authorizing the release of information, but gives the student an opportunity to opt out.

The rule says the department will request the student to sign the form opting in or opting out and noncompliance only results in a default opt-out.

This is contrary to the law and contrary to legislative intent.

Once a student consents to the release of data, and in this case it will be de-identified data that the Bureau receives, then there is no FERPA violation.

Suggested revision: ~~The ADHE will request that a student, or the recipient's parent or guardian(s) if the recipient is less than 18 years of age, receiving state-supported student financial assistance shall complete and sign a consent form opting-in or opting-out of authorizing the release of the student's individual information to the Bureau of Legislative Research. If a recipient or recipient's parent or guardian fails to complete the consent form, that recipient will be opted-out of releasing information to the Bureau of Legislative Research. Opting-out of the release of information to the Bureau of Legislative Research will not affect a student's eligibility for financial aid.~~

ADHE Prioritization Chart:

| TWO-YEAR INSTITUTIONS: | | | FOUR-YEAR INSTITUTIONS | | |
|-------------------------------|---------------------------------|---------------------------------|-------------------------------|---------------------------------|---------------------------------|
| Delayed | Returning | Earn-in | Delayed | Returning | Earn-in |
| D/N Need Remediation | Nearest to Completion | Nearest to Completion | D/N Need Remediation | Nearest to Completion | Nearest to Completion |
| ACT | D/N Need Remediation | D/N Need Remediation | ACT | D/N Need Remediation | AA/AS/AAS transfer from 2-year |
| Financial Need | Workforce Critical Need Program | Workforce Critical Need Program | Financial Need | Workforce Critical Need Program | D/N Need Remediation |
| | GPA | GPA | | GPA | Workforce Critical Need Program |
| | Financial Need | Financial Need | | Financial Need | GPA |
| | | | | | Financial Need |