



American Council on Education
Office of the President

August 16, 2006

Fred Sellers
U.S. Department of Education
P.O. Box 33184
Washington, D.C. 20033-3184

Re: Public Comment on Interim Final Regulations for the AC/SMART Grant Programs

Dear Mr. Sellers:

On behalf of the higher education associations listed below, I write in response to the Department of Education's call for public comment on the interim final regulations for the Academic Competitiveness Grant (ACG) and National Science and Mathematics to Retain Talent (SMART) Grant programs published in the *Federal Register* on July 3, 2006.

The higher education community recognizes and appreciates the time constraints under which these interim final regulations were developed. We wish to commend the Department for going to considerable lengths to respond to the concerns expressed by the registrar community, the financial aid administrator community and other representatives of the campus community who are attempting to make these new grant programs work. Nevertheless, we have a number of outstanding concerns with the regulations as written.

While not exhaustive, our comments request changes in a small number of high priority provisions that will directly impact the success or failure of the ACG and SMART Grant programs. In singling out these issues, we recognize that there are additional provisions that will be complicated to administer or that will create a heavy workload for our campuses. We trust that you will receive recommendations for addressing these rules from our colleagues at the National Association of Student Financial Aid Administrators and directly from our campuses, and we support their efforts to obtain changes. However, we believe that the issues listed below will render ACG and SMART Grants unworkable unless they are redesigned.

Requiring Institutional Transcript Verification

For reasons of timing, most colleges and universities must base their admissions decisions on six - or sometimes seven - completed semesters of high school. Although some institutions may ultimately receive after-the-fact confirmation of a student's graduation, that kind

of information often arrives well into the new school year and rarely, if ever, involves the course-by-course review envisioned by the Department's Academic Competitiveness Grant regulations. Requiring institutions to begin that kind of retrospective, granular analysis on *every* transcript of *every* first-year ACG recipient represents a breathtaking new administrative burden. Furthermore, it is not feasible and may not even be possible. Rather than encumbering the Academic Competitiveness Grant program with this requirement, we believe the Department should adopt a standard that assumes the regulatory requirement is fulfilled if an institution awards the grant in good faith using the best available information at the time the award is made.

Basing AC/SMART Grant Program Eligibility on "Academic Year"

While we understand that Section 401A of the statute makes reference to a student's "academic year", we believe it is imperative to point out the real world administrative morass created by this approach. Since other significant financial aid (most notably, Stafford Loans) is packaged according to a student's grade level as defined by the institution they are attending, this requirement sets up a scenario where a student could be defined as one year by their college for purposes of receiving student loans but defined as another year altogether by the statute for purposes of receiving an Academic Competitiveness Grant or SMART Grant. The extent of the resulting confusion will inevitably penalize the very same students these programs were designed to help.

As a practical matter, on our campuses, academic year standing is a function of coursework. It is acknowledged on the basis of credit accumulation, not by the number of weeks of enrollment. These two concepts are incompatible for determining ACG and SMART Grant eligibility and their linkage will only contribute to confusion. They should be decoupled. Rather than basing ACG and SMART Grant eligibility on a student's "academic year", we strongly recommend harmonizing program eligibility with the same institutionally defined grade level progression used for disbursing other forms of student aid such as annual loan limit eligibility.

Determining Eligibility for SMART Grants/Declaration of Academic Majors

It is clear that the Department recognizes that the breadth and variety of institutional policies surrounding the determination of an academic major do not lend themselves to a rigid regulatory approach to SMART Grant eligibility. We are grateful for the flexibility that the Department has attempted to incorporate into the regulations in regard to these disparate institutional policies. However, in spite of the attempt that has been made, the requirements itemized in §691.15(c)(2) simply do not reflect the way our institutions operate.

Many institutions don't ask a student to declare a major until his/her junior year. Some majors remain undeclared until a student's senior year even though the student may have a concentration of coursework in an eligible field of study. Conversely, a student may have a declared major in an eligible field of study such as particle physics, but may take a non-linear path toward amassing the requisite in-field credits. These, and dozens of other examples that could be cited, all fall within the bounds of accepted institutional policy, and we do not believe the federal government should insert itself into this process.

The biggest problems arise in conjunction with §691.15(c)(2)(ii), which would require a continuous tally of all courses taken by an eligible student and the progress toward a major. No institution is capable of doing this. However, removal of this section will not solve all the problems associated with implementing this portion of the regulation. Therefore, we would suggest that §691.15(c)(2) be revised to read as follows: “(2)(i)(A) In accordance with the institution’s academic requirements, formally declares an eligible major; **or** (B) If the institution’s academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant on that basis— (1) enrolls in the courses deemed by the institution to be consistent with fulfilling the requirements of an intended eligible major; and (2) declares an intention to complete a major in an eligible field of study.” We feel very strongly that any attempt to be definitive in regulating an eligible academic major is inappropriate, and cannot be done without usurping an institution’s prerogative to establish its own academic requirements.

Finally, we would like to urge the Department to reconsider two provisions that deviate from statutory language. The first of these is the exclusion from ACG eligibility of students who are Pell Grant recipients and are enrolled in certificate programs that fully articulate into baccalaureate degree programs. This exclusion lacks any statutory foundation, and will lead to the differential treatment of students attending the same school and having identical need profiles. The numbers of students in certificate programs who fall into the category of fitting all other eligibility requirements will be small, but the equity considerations are not. The second of the departures from the statute is the decision to link participation in ACG and SMART Grants to eligibility to participate in the Pell Grant program. Because our campuses are eager to have the opportunity to award additional federal grant aid to low-income students, they are actively engaged in trying to make the ACG and SMART Grant programs work operationally. It diminishes their efforts and creates a disturbing precedent to have the Department overstep statutory authority to effectively compel institutions to participate in the ACG and SMART Grant program. We ask you to reverse both of these decisions.

We appreciate the opportunity to offer these comments, and we look forward to continuing to work with the Department to resolve these and other problems that may develop in the early years of administering these two new programs.

Sincerely,

A handwritten signature in black ink, appearing to read "David Ward", written in a cursive style.

David Ward
President

Re: Response to SMART Grant regulations

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DW/mmm

On behalf of:

American Association of Community Colleges

American Association of State Colleges and Universities

American Council on Education

Association of American Universities

Association of Community College Trustees

National Association of Colleges and University Business Officers

National Association of State Universities and Land-Grant Colleges

National Association of Student Financial Aid Administrators