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DEPARTMENT OF EDUCATION

Notice Inviting Postsecondary Educational Institutions to Participate in Experiments under the Experimental Sites Initiative; Federal Student Financial Assistance Programs under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites postsecondary educational institutions (institutions) that participate in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (the HEA), to apply to participate in a new institution-based experiment under the Experimental Sites Initiative (ESI). Under the ESI, the Secretary has authority to grant waivers from certain title IV HEA statutory or regulatory requirements to allow a limited number of institutions to participate in experiments to test alternative methods for administering the title IV HEA programs. The alternative methods of title IV HEA administration that the Secretary is

permitting under the ESI are designed to facilitate efforts by institutions to test certain innovative practices aimed at improving student outcomes and the delivery of services.

Under this experiment, participating institutions will provide Federal Pell Grant funding to otherwise eligible students who are incarcerated in Federal or State penal institutions. Details of the experiment are provided below in the "The Experiment" section of this notice.

**DATES:** Letters of application to participate in the proposed experiment described in this notice must be received by the Department of Education (the Department) no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] in order for an institution to receive priority to be considered for participation in the experiment. Institutions submitting letters that are received after [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] may still, at the discretion of the Secretary, be considered for participation.

**ADDRESSES:** Letters of application must be submitted by electronic mail to the following email address: *experimentalsites@ed.gov*. For formats and other required information, see "Instructions for Submitting Letters of Application" under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Warren Farr, U.S. Department of Education, Federal Student Aid, 830 First Street, NE, Washington, DC 20002. Telephone: (202) 377-4380 or by email at: Warren.Farr@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Instructions for Submitting Letters of Application:

Letters of application should take the form of an Adobe Portable Document Format (PDF) attachment to an email message sent to the email address provided in the ADDRESSES section of this notice. The subject line of the email should read "ESI 2015 - Pell for Students who are Incarcerated." The text of the email should include the name and address of the institution. The letter of application should be on institutional letterhead and be signed by the institution's financial aid administrator. The letter of application must include the institution's official name and the Department's Office of Postsecondary Education Identification (OPEID), as well as the name of a contact person at the institution, a mailing address, email address, FAX number, and telephone number. Please include in the letter a listing of the academic programs that the

institution is considering for inclusion in this experiment and, for each of those programs, an estimate of the number of participating students. We understand that institutions' academic program listings and the actual number of students who participate may vary from the information submitted in the letter.

Background:

Section 401(b)(6) of the HEA provides that students who are incarcerated in a Federal or State penal institution are not eligible to receive Federal Pell Grant funds. This prohibition is included in the Department's regulations at 34 CFR 668.32(c)(2)(ii).

The experiment outlined below will allow participating institutions to provide Federal Pell Grant funding to otherwise eligible students who are incarcerated in Federal or State penal institutions and who are eligible for release into the community, particularly those who are likely to be released within five years of enrollment in the program.

The prison population is significantly less educated than the general population. For nearly half of all incarcerated individuals in Federal or State facilities, a high school diploma or General Educational Development (GED) certificate is their highest level of education.

Only 11 percent of incarcerated individuals in State correctional facilities and 24 percent of individuals incarcerated in Federal prisons have completed at least some postsecondary education.<sup>1</sup> In addition, educational offerings at Federal and State penal institutions are limited in that they generally focus on adult basic education and secondary education that aim to improve foundational reading, writing, numeracy, and English language skills. Surveys of Federal and State prisons have found that only about 40 percent offer postsecondary education programs.<sup>2</sup> Given the statutory prohibition on incarcerated students accessing Federal student aid, roughly 1,574,700 persons in Federal or State penal institutions in 2013 were unable to be considered for higher education courses financed through the Pell Grant Program.<sup>3</sup>

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<sup>1</sup> Caroline Wolf Harlow. "Education and Correctional Populations." U.S. Department of Justice, Office of Justice Programs. January 2003. Accessed on June 12, 2015 at: [www.bjs.gov/content/pub/pdf/ecp.pdf](http://www.bjs.gov/content/pub/pdf/ecp.pdf).

<sup>2</sup> Wendy Erisman and Jeanne Bayer Contardo. "Learning to Reduce Recidivism: A 50-state Analysis of Postsecondary Correctional Education Policy." Institute for Higher Education Policy. November 2005. Accessed on June 12, 2015 at: [www.ihep.org/sites/default/files/uploads/docs/pubs/learningreducerecidivism.pdf](http://www.ihep.org/sites/default/files/uploads/docs/pubs/learningreducerecidivism.pdf).

<sup>3</sup> Lauren E. Glaze and Danielle Kaebler. "Correctional Populations in the United States, 2013." U.S. Department of Justice, Bureau of Justice Statistics. December 2014. Accessed on May 1, 2015 at: [www.bjs.gov/content/pub/pdf/cpus13.pdf](http://www.bjs.gov/content/pub/pdf/cpus13.pdf).

While fewer than half of all prisons offer postsecondary education, research suggests that postsecondary education and training for incarcerated individuals is correlated with several positive post-release outcomes, including increased educational attainment levels, reduced recidivism rates, and improved post-release employment opportunities and earnings.<sup>4</sup> According to the Department of Justice, postsecondary correctional education is a promising and cost-effective practice that supports the successful reentry of justice-involved individuals.<sup>5</sup> Providing greater postsecondary education and training opportunities to incarcerated individuals, particularly the approximately 630,000 individuals expected to be released from Federal and State prisons each year<sup>6</sup>, some of whom will be eligible to receive Pell grants, may help to facilitate their successful transition back into society. Consistent with the President's "My Brother's Keeper Task Force"

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<sup>4</sup> Lois M. David, Robert Bozick, Jennifer L. Steele, Jessica Saunders and Jeremy N. V. Miles. "Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults." RAND Corporation. 2013. Accessed on June 12, 2015 at: [www.rand.org/pubs/research\\_reports/RR266](http://www.rand.org/pubs/research_reports/RR266).

<sup>5</sup> "Practice Profile: Postsecondary Correctional Education." National Institute of Justice. Accessed on May 1, 2015 at: [www.crimesolutions.gov/PracticeDetails.aspx?ID=23](http://www.crimesolutions.gov/PracticeDetails.aspx?ID=23).

<sup>6</sup> "Prisoners in 2013." U.S. Department of Justice, Bureau of Justice Statistics. September 2014. Accessed on June 12, 2015 at: [www.bjs.gov/content/pub/pdf/p13.pdf](http://www.bjs.gov/content/pub/pdf/p13.pdf).

recommendations to enforce the rights of incarcerated youth to a quality education and eliminate unnecessary barriers to reentry, on December, 8, 2014, the Department of Education and the Department of Justice jointly released a Correctional Education Guidance Package.<sup>7</sup> The guidance package included a Dear Colleague Letter on Access to Pell Grants for Students in Juvenile Justice Facilities (DCL GEN-14-21) from the Department of Education clarifying that students who are confined or incarcerated in locations that are not penal institutions, such as juvenile justice facilities and local or county jails, and who otherwise meet applicable eligibility criteria, are eligible for Federal Pell Grants.<sup>8</sup> The experiment, which is described in more detail in the "The Experiment" section of this notice, is intended to test whether participation in high-quality educational opportunities increases after access to financial aid for incarcerated adults is expanded.

This notice is in response to a notice that was published in the Federal Register on December 6, 2013 (78

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<sup>7</sup> Department of Education. Correctional Education in Juvenile Justice Facilities. Available at: [www2.ed.gov/policy/gen/guid/correctional-education/index.html](http://www2.ed.gov/policy/gen/guid/correctional-education/index.html)

<sup>8</sup> Department of Education. Federal Pell Grant Eligibility for Students Confined or Incarcerated in Locations That Are Not Federal or State Penal Institutions. Dear Colleague Letter GEN-14-21. Available at: <http://ifap.ed.gov/dpccletters/GEN1421.html>.

FR 73518), through which the Secretary solicited suggestions from postsecondary institutions for new experiments under the ESI. In response, the Department received submissions from a diverse range of institutions and other interested parties. The experiment included in this notice was informed by suggestions submitted that were related to the title IV HEA eligibility of incarcerated students.

Reporting and Evaluation:

The Department is interested in obtaining information that will allow for an evaluation of the experiment. Institutions that are selected for participation in the experiment will be required to provide the Department information about the participating students, which may include identifying information for students who submit a Free Application for Federal Student Aid (FAFSA) for enrollment in one of the programs included in the experiment offered by the participating postsecondary educational institution.

In addition, participating institutions will be required to submit an annual report about the experiment, its implementation, and its results. Through this survey, institutions will provide the Department information on (1) courses and programs offered, (2) numbers and types of

degrees and certificates awarded, (3) partnerships with the correctional facilities, (4) challenges in providing programs and courses in the prison settings, (5) how these challenges were addressed, and (6) other relevant data.

In addition to complying with these reporting and evaluation requirements, participating institutions will be required to participate, if requested, in an outcome evaluation of the experiment.

The specific evaluation and reporting requirements will be finalized prior to the start of each experiment.

Application and Selection:

From the institutions that submit letters of interest, the Secretary will select a limited number of institutions to participate in the experiment, carefully considering institutional diversity by, among other characteristics, institutional type and control, geographic location, enrollment size, and title IV HEA participation levels.

When determining which institutions will be selected for participation in this experiment, the Secretary will consider evidence that demonstrates a strong record on student outcomes and in the administration of the title IV HEA programs, such as evidence of programmatic compliance, cohort default rates, financial responsibility ratios,

completion rates, and, for for-profit institutions, "90/10" funding levels.

Before institutions are selected for this experiment, the Secretary will consult with the institutions on the final experimental design through webinars or other outreach activities.

Institutions selected for participation in the experiment will have their Program Participation Agreements (PPAs) with the Secretary amended to reflect the specific statutory or regulatory provisions that the Secretary waives or modifies for the experiment. The amended PPA will document the agreement between the Secretary and the institution for the administration of the experiment.

The Experiment:

Background:

Section 401(b)(6) of the HEA provides that students who are incarcerated in a Federal or State penal institution are not eligible to receive Federal Pell Grant funds. This restriction prevents many otherwise eligible incarcerated individuals from accessing financial aid and benefiting from postsecondary education and training.

In accordance with the waiver authority granted to the Secretary under section 487A(b) of the HEA, this experiment will examine how waiving the restriction on providing Pell

Grants to individuals incarcerated in Federal or State penal institutions influences participation in education opportunities as well as academic and life outcomes. The experiment will also examine whether the waiver creates any challenges or obstacles to an institution's administration of the title IV HEA programs.

Description:

This experiment will provide a waiver of the statutory provision that a student who is incarcerated in a Federal or State penal institution may not receive a Pell Grant. The experiment will allow some otherwise eligible students who are incarcerated in Federal or State penal institutions to receive a Pell Grant to help cover some of the costs of their participation in a postsecondary education and training program developed and offered by the participating postsecondary educational institution. This experiment only waives specific requirements of the title IV HEA programs. Additional restrictions or requirements associated with postsecondary study imposed by postsecondary institutions or correctional institutions may still apply. Students' eligibility to receive Federal Pell Grants aid under this experiment would remain subject to those requirements.

The education and training programs offered by the postsecondary institution must meet all title IV HEA

program eligibility requirements. While the program must be credit-bearing and result in a certificate or degree, up to one full year of remedial coursework is allowed for students in need of academic support.

The experiment will require that participating institutions:

- Partner with one or more Federal or State correctional facilities to offer one or more title IV HEA eligible academic programs to incarcerated students;
- Work with the partnering correctional facilities to encourage interested students to submit a FAFSA;
- Only disburse Pell Grant funding to otherwise eligible students who will eventually be eligible for release from the correctional facility, while giving priority to those who are likely to be released within five years of enrollment in the educational program;
- Only enroll students in postsecondary education and training programs that prepare them for high-demand occupations from which they are not legally barred from entering due to restrictions on formerly incarcerated individuals obtaining any

necessary licenses or certifications for those occupations;

- Disclose to interested students and to the Department information about any portions of a program of study that, by design, cannot be completed while students are incarcerated, as well as the options available for incarcerated students to complete any remaining program requirements post-release;

- As appropriate, offer students the opportunity to continue their enrollment in the academic program if the student is released from prison prior to program completion; and

- Inform students of the academic and financial options available if they are not able to complete the academic program while incarcerated. This includes whether the students can continue in the program after release, transfer credits earned in the program to another program offered by the institution, or transfer credits earned in the program to another postsecondary institution.

Participating institutions, in partnership with Federal or State correctional facilities, will also submit their plans for providing academic and career guidance, as

well as transition services to their incarcerated students to support successful reentry.

The Pell Grant funds made available to eligible students through this experiment are intended to supplement, not supplant, existing investments in postsecondary prison-based education programs by either the postsecondary institution, the correctional facility, or outside sources.

Waivers:

Institutions selected for this experiment will be exempt from, or will be granted waivers from, section 401(b)(6) of the HEA; and 34 CFR 668.32(c)(2)(ii), which provides that students who are incarcerated in any Federal or State penal institution are not eligible to receive Pell Grant funding.

The waiver described in this notice does not apply to individuals subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense.

All other provisions and regulations of the title IV HEA student assistance programs will remain in effect.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on

request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

[www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or PDF. To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

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Delegation of Authority: The Secretary of Education has delegated authority to Jamiene S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Program Authority: HEA, section 487A(b); 20 U.S.C. 1094a(b).

Dated: July 29, 2015.

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Jamienne S. Studley,  
Deputy Under Secretary.

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