



September 21, 2009

Jessica Finkel  
U.S. Department of Education  
1990 K Street, NW  
Room 8031  
Washington, DC 20006-8502

RE: 34 CFR Parts 600, 668, 675, et al. General and Non-Loan Programmatic Issues; Proposed Rule  
Docket ID: ED-2009-OPE-0005  
Document ID: ED-2009-OPE-0005-0001  
Document Title: 34 CFR Parts 600, 668, 675, et al. General and Non-Loan Programmatic Issues; Proposed Rule  
RIN: 1840-AC99  
Electronic comments submitted through the Federal eRulemaking Portal  
<http://www.regulations.gov>.

On behalf of the nearly 100,000 bipartisan members of the American Association of University Women (AAUW), I write to share AAUW's comments in response to the U.S. Department of Education's Notice of Proposed Rule Making (NPRM) on General and Non-Loan Programmatic Issue provisions in Higher Education Opportunity Act of 2008 (HEOA), published in the Federal Register on August 24, 2009.

AAUW strongly supported passage of HEOA, which reauthorized the Higher Education Act of 1965. Students benefitted from numerous provisions that would make the dream of a college education more affordable, as well as improve student safety while on campus thanks to updated hate crimes provisions. However, AAUW does have strong concerns with regard to proposed provisions on the issuance of year-round Pell grants. We outline those concerns below and offer suggestions that would better serve the millions of students for whom Pell grants are indispensable to achieving the dream of higher education. AAUW is pleased that the Department of Education's proposed rulemaking takes the necessary step of updating the categories of criminal incident data that are collected, so that Department of Education categories are aligned with those used by the Federal Bureau of Investigation (FBI).

**AAUW's Support for the Higher Education Opportunity Act**

AAUW's 2009-11 Public Policy Program affirms our commitment to "a strong system of public education that promotes gender fairness, equity, and diversity....and advocates increased support for, and access to, higher education for women and other disadvantaged populations."<sup>1</sup> Changes in the workforce over the last century have resulted in higher education becoming less of a luxury and more of a necessity. By

2016, an estimated 9 million new jobs will likely require postsecondary education.<sup>2</sup> As the skill requirements of jobs continue to increase, so too should access to postsecondary education for all students. However, because student aid and family incomes have not risen at the same rates as college tuition, the dream of a college education has become more of a challenge in recent years, placing burdens on both students and their families. In fact, a majority of Americans are finding paying for college more difficult than they did a decade ago.<sup>3</sup>

To make access to higher education more affordable, one of the most significant provisions authorized by HEA is the Pell grant program. In 2006-07, 31 percent of Pell grants went to one-third of undergraduate students enrolled in public two-year colleges and 34 percent of students enrolled at public four-year colleges.<sup>4</sup> However, the purchasing power of the Pell grant has declined substantially. Today, the maximum Pell grant award covers only 33 percent of the total cost at a public 4-year institution, versus 55 percent of those costs 20 years ago.<sup>5</sup>

Last year, AAUW successfully pushed legislative changes that allow students to qualify for Pell grants based on a year-round enrollment schedule, as well as those who attend college on a part-time basis. Many nontraditional students attend classes during the summers, and federal Pell grants should be available to all students willing to make the commitment to higher education—even if that means they choose to attend school on a nontraditional schedule.<sup>6</sup>

In addition to making higher education more affordable, HEA also serves to help shield students once they make it to campus in the form of protection against hate crimes. Every year, more than half a million students endure bias-motivated slurs, vandalism, threats, and physical assaults on college campuses.<sup>7</sup> The FBI typically documents almost 10,000 hate crimes every year, and other estimates range as high as 200,000.<sup>8</sup> To increase awareness of hate crimes on college campuses, the 1998 Higher Education Act required all colleges and universities to collect and report hate crime statistics to the Office of Postsecondary Education (OPE) of the Department of Education. The Department of Education utilized the definition of a hate crime developed by the FBI, but the criminal offenses required to be reported to OPE did not match the existing FBI crime categories. The 2008 reauthorization included an AAUW-led effort to create such a match.

In 2008, AAUW joined in the bipartisan enthusiasm behind the Higher Education Opportunity Act, which helped to create more flexibility in the Pell grant program vis-à-vis nontraditional students along with the inclusion of the aforementioned improvements to hate crimes reporting laws. AAUW strongly supported both these provisions, and urges the Department to adopt final rules which reflect Congress' intent.

## **Part 690 Federal Pell Grant Program**

*Two Federal Pell Grants in an Award Year (§§690.63 (h), 690.64, and 690.67))*

*Student Eligibility for a Second Scheduled Award (§ 690.67(a))*

Under HEOA, a student may receive up to two consecutive Pell grants during a single award year if the student is enrolled at least half-time for more than one academic year, more than two semesters, or the equivalent time during a single award year. An institution may award this second award if a student is enrolled as a full-time student in an eligible program and has completed the necessary credit hours and weeks of instructional time in an academic year leading to a degree. In other words, students could be eligible to receive enough Pell grant funding to attend school year-round, shortening the amount of time needed to successfully complete their program. This provision would be especially helpful to nontraditional students who often do not follow the typical college calendar.

The proposed regulations would amend this provision to provide that a student would be eligible for a second Pell grant “if the student has earned in an award year at least the credit or clock hours of the first academic year of the student’s eligible program, and is enrolled as at least a half-time student in a program leading to a bachelor’s or associate degree or other recognized educational credential.” AAUW believes that this proposal neither serves students well, nor adheres to congressional intent.

The Department justifies this proposal on the grounds that it would send a message to students that would encourage them to achieve their degree within a shorter time period. AAUW believes that a second Pell grant award should instead be designed to help an individual student—especially those who are nontraditional or attending school part-time—finish an academic program in quicker fashion. Those not attending school on a full-time basis will likely have great difficulty meeting all of the required credit hours in a given academic year before becoming eligible to receive a second Pell grant in that same year. Nontraditional students – the majority of whom are women<sup>9</sup> – will be disproportionately and negatively affected by this proposed regulation, putting further student aid and perhaps even their college degree that much further out of reach. AAUW therefore urges the Department to issue final regulations that reflect the needs and schedules of part-time students, as Congress intended when it passed the legislation. The Department should drop the requirement that a student finish all of a college's required credit hours in a given academic year before receiving a second Pell grant in that year.

## **Campus Safety Provisions**

*Hate Crime Reporting (§668.46 (c)(3))*

The HEOA reauthorization included an amendment to HEA that would expand the list of hate crimes that must be reported to the Department of Education; the list now includes larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property. Prior to this change, colleges were required to report any crimes involving bodily injury in which the victim was targeted because of his or her race,

gender, religion, sexual orientation, ethnicity, or disability. However, they were not required to report the additional items, even though they were included in the FBI definition. This resulted in conflicting data coming from the various agencies, making the information less useful to the campus community as it assesses its campus safety.

The proposed regulations carry out the amended statute to update the list of hate crime reporting categories under HEA. AAUW strongly supports this proposed rule. As previously mentioned, AAUW led the effort to pass the provision that aligns the HEA hate crimes reporting categories with the categories used by the FBI. This improved data will give parents and students a more accurate sense of campus safety, and provide colleges with a better picture of their campus climate. AAUW will work with the administration and Congress to fund and inspire the necessary education, training, and outreach initiatives to fully implement this new campus hate crime reporting mandate, and to ensure that schools accurately report the required data.

### **Conclusion**

The Higher Education Act is the cornerstone of the federal government's commitment to post-secondary education. HEA is the most significant federal law for American colleges, governing Education Department programs on accreditation, international and graduate education, teacher training and, most importantly, dozens of financial aid programs for students. AAUW urges the Department of Education to modify the proposed regulations governing multiple Pell grants to better serve nontraditional students. AAUW also strongly supports the Department's proposed regulations to match HEA hate crime reporting categories with those used by the FBI; doing so will better ensure campus safety for millions of women and minority students.

If you have any questions, please feel free to contact me at 202-785-7720, or Adam Zimmerman, regulatory affairs manager, at 202-728-7617. Thank you for the opportunity to submit comments on these important regulations.

Sincerely,



Lisa M. Maatz  
Director, Public Policy and Government Relations

- 
- <sup>1</sup> American Association of University Women. (June 2009). *2009-11 AAUW Public Policy Program*. Retrieved September 16, 2009, from [http://www.aauw.org/advocacy/issue\\_advocacy/principles\\_priorities.cfm](http://www.aauw.org/advocacy/issue_advocacy/principles_priorities.cfm).
- <sup>2</sup> Bureau of Labor Statistics. (2008). *Occupational Projections and Training Data, 2008-09 Edition*. Retrieved September 18, 2009, from <http://www.bls.gov/emp/optd/optd001.pdf>.
- <sup>3</sup> The National Center for Public Policy and Higher Education. (2008). *Measuring Up 2008*. Retrieved September 17, 2009, from <http://measuringup2008.highereducation.org/>.
- <sup>4</sup> The College Board. (2008). *Trends in Student Aid 2008*. Retrieved September 17, 2008, from <http://www.collegeboard.com/html/costs/aid/>.
- <sup>5</sup> The College Board. (2008). *Trends in Student Aid, 2008*. Retrieved September 17, 2008, from <http://www.collegeboard.com/html/costs/aid/>.
- <sup>6</sup> Most students attend less than half time temporarily, and aid to those students may increase their ability to complete a degree program. "Initiative to Aid Illinois Adult Learners." Springfield, IL: Illinois Student Aid Commission, 2001.
- <sup>7</sup> Southern Poverty Law Center. *10 Ways to Fight Hate on Campus*. Retrieved September 17, 2009, from <http://www.tolerance.org/teaching-kits>.
- <sup>8</sup> Harlow, C.W. (November 2005). *Hate Crime Reported by Victims and Police*. Bureau of Justice Statistics Special Report, NCJ 209911. Retrieved December 29, 2008, from <http://www.ojp.usdoj.gov/bjs/pub/pdf/hcrvp.pdf>.
- <sup>9</sup> Kerka, Sandra. (2003). Financial Aid for Lifelong Learning. *ERIC Digest* No. 224.