

## U.S. Department of Education's Experimental Sites Initiative Second Chance Pell Experiment Frequently Asked Questions

**Q1.** What can the cost of attendance for an incarcerated student include?

**A1.** Section 472(6) of the HEA provides that the cost of attendance for incarcerated students is limited to tuition and fees and, if required, books and supplies. This is explained more fully in [Volume 3, Chapter 2](#) of the Federal Student Aid Handbook that is posted to the [Knowledge Center](#).

**Q2.** Will Pell Grants to students in this experiment be pro-rated for these incarcerated students?

**A2.** No. Federal Pell Grant awards under this experiment will be determined using the regular Pell Grant award and disbursement rules. This means that some students may not receive their full Pell Grant scheduled award because, for example, the student is not enrolled full-time, is not enrolled for the entire academic year, does not have sufficient remaining annual or aggregate eligibility.

**Q3.** Will incarcerated students in this experiment have a special federal financial aid application or will they need to complete and submit the Free Application for Federal Student Aid (FAFSA)?

**A3.** Incarcerated students must complete the Free Application for Federal Student Aid (FAFSA) to determine their eligibility for a Pell Grant. They may do so by using one of the current FAFSA completion methods:

- [Online FAFSA](#)
- [Paper \(PDF\) FAFSA](#) or
- Requesting a paper FAFSA by calling 1-800-4-FED-AID. Postsecondary institutions and correctional facilities have the option of duplicating the PDF version of the FAFSA for their students.

**Q4.** How does a postsecondary institution determine if an academic program (e.g., a new certificate program) it wants to offer incarcerated students as part of this experiment is Title IV-eligible?

**A4.** The experiment does not waive any of the requirements for program eligibility determination. Thus, postsecondary institutions must ensure that all of the programs that will be offered as part of this experiment are Title IV-eligible programs. More information is available in the Federal Student Aid Handbook, Volume 2, Chapter 2. Postsecondary institutions should contact their regional School Participation Division to determine if their academic program is Title IV eligible and if not, how it can become eligible.

**Q5.** Why does this experiment only refer to federal and state penal institutions? Can a postsecondary institution partner with a local correctional facility or a juvenile justice facility under this experiment?

**A5.** Current award rules preclude students who are incarcerated in federal or state penal institutions from receiving Federal Pell Grants. This experiment waives the section of the Higher Education Act, as amended, that prohibits otherwise eligible students from receiving a Pell Grant if they are incarcerated in a *federal or state* penal institution. A student who is incarcerated in a local, municipal, or county

correctional facility and otherwise meets eligibility criteria, is eligible for a Federal Pell Grant under current award rules. In [Dear Colleague Letter GEN-14-21](#), which was published on December 2014, the U.S. Department of Education issued guidance that clarified that students confined or incarcerated in locations that are not Federal or State penal institutions, such as juvenile justice facilities, and who otherwise meet applicable eligibility criteria, are eligible for Federal Pell Grants.

**Q6.** What is a penal institution? Is a halfway house considered a penal institution?

**A6.** For Federal student aid purposes, a penal institution is a facility that confines an individual as a result of being convicted for a crime. Thus, students are not considered to be incarcerated in a penal institution if they are in a halfway house or on home detention, are sentenced to serve only on weekends, or are confined in any sort of facility prior to the imposition of any criminal sentence or disposition while awaiting trial. Such students do not face the eligibility restrictions that are the subject of this experiment.

**Q7.** What does the Department mean by “released into the community”?

**A7.** For this experiment, “released into the community” means that the individual is no longer incarcerated in a federal or state penal institution (see Q6 above).

**Q8.** Will a postsecondary institution need to add the penal institution as an additional location on its eCAR?

**A8.** If a postsecondary institution will be offering 50% or more of an eligible program at the penal institution (including programs offered in whole or in part through distance education), the postsecondary institution would need to report the penal institution as an additional location to the Department of Education by using the [E-App](#).

**Q9.** Are there any Federal funds or other incentives available for the correctional facilities with which postsecondary institutions partner?

**A9.** No. At this time there are no funds or other incentives available from the Department of Education to correctional facilities that partner with postsecondary institutions participating in the Second Chance Pell Experiment.

**Q10.** Are postsecondary institutions required to offer courses in a particular mode of instruction?

**A10.** Classes offered to students under this experiment may be offered in any format *except for correspondence*. Correspondence programs are not eligible for participation in this experiment. If the classes are offered using other distance education methods, the postsecondary institution must be approved to offer classes in those formats by the postsecondary institution’s accrediting agency, and, if applicable, State approving agency. Postsecondary institutions will most likely also need correctional facility approval.

**Q11.** Will the postsecondary institutions under this experiment receive a waiver of the 25 percent limit of regular enrolled students who are incarcerated provided under the regulations at [34 CFR 600.7\(c\)](#)?

**A11.** Postsecondary institutions under the experiment are not granted an automatic waiver of the 25 percent incarcerated student regulatory limitation provided under Federal regulations [34 CFR 600.7\(c\)](#). However, postsecondary institutions may apply for the waiver through their regional School Participation Team. Note that approval to participate in this experiment does not include automatic approval of the waiver of the 25 percent incarcerated students limitation.

**Q12.** Can the postsecondary institutions under this experiment charge incarcerated students a different amount than it charges non-incarcerated students who are enrolled in the same program? What kind of “fees” are allowed for incarcerated students?

**A12.** Postsecondary institutions may have different charges for students in different programs, but they may not charge incarcerated students a different amount than non-incarcerated students who are enrolled in the same program. However, an institution may determine that its Second Chance Pell program is a different program than the program it offers traditional students, even if the credits and courses are the same.

An institution can charge any reasonable fee associated with the academic program that the student is completing. If an institution has designed the educational program for incarcerated students as separate from an otherwise identical or closely related program for non-incarcerated students, then the fees charged to the incarcerated students must be associated with the academic program for the incarcerated students. For example, if the incarcerated students do not have access to technology that is covered by a technology fee, but non-incarcerated students have access to this technology, the incarcerated students must not be charged that technology fee because the incarcerated students cannot access the associated technology for their academic program. By contrast, if the institution determines that both incarcerated and non-incarcerated students are enrolled in the same academic program then the institution may charge a fee to all students regardless of classification.

**Q13.** If an incarcerated student who is enrolled in an eligible program under the Second Chance Pell experiment is released into the community and is no longer incarcerated, how does this student complete the program post-release? What Title IV requirements need to be followed?

**A13.** Institutions must provide formerly incarcerated students with an opportunity to complete their program post-release. If the program offered to incarcerated students is the same as the program offered to traditional students and has the same tuition costs, the student may continue in that program. When a student is no longer incarcerated, additional costs (*e.g.*, room and board) are permitted in their cost of attendance. Because of this, the institution must recalculate the student’s eligibility based on the new cost of attendance and determine the student’s eligibility for additional Title IV aid as applicable.

If the institution has determined that the program for incarcerated students is different than the program offered to traditional students, charges a different tuition amount, and if a formerly incarcerated student chooses to continue their education at the institution post-release, the institution must withdraw the student from the incarcerated version of the program and enroll the student in the traditional student version of the program. All applicable Return of Title IV calculations must be performed. The student's Title IV eligibility must be recalculated based on the cost of attendance of the new program. Once the Title IV eligibility for the new program is determined, the student can receive Title IV aid under normal awarding and disbursement procedures.

**Q14.** If a student in the experiment is selected for verification groups V4 or V5 and must verify identity, are prison IDs acceptable documentation to verify identity?

**A14.** Yes, prison IDs are acceptable documentation to verify identity for students under this experiment, as long as the student is still incarcerated.

**Q15.** When completing the FAFSA, how should incarcerated students in the experiment answer the question about their state of legal residency?

**A15.** How incarcerated students answer questions pertaining to residency depends on a number of factors that are outside of the U.S. Department of Education's authority.

**Q16.** Is there alternative documentation that postsecondary institutions participating in the Second Chance Pell experiment can accept from incarcerated students under this experiment who are required to submit verification of non-filing from the IRS?

**A16.** Yes, postsecondary institutions participating in the Second Chance Pell experiment, who have incarcerated students under this experiment who are required to submit verification of non-filing from the IRS may accept, as alternative documentation, documentation from the correctional facility (or another official entity) that provides that the student was incarcerated for all of the corresponding tax year. In addition, the school is required to collect a signed statement certifying that the applicant was not required to file an income tax return and identifying all sources and amounts of any income and confirming they were not required to file taxes with the IRS. For example, if the student was incarcerated for the entire 2020 tax year, the school may accept documentation for the 2021-2022 or the 2022-2023 award year from the correctional facility that shows that the student was incarcerated for the entire applicable (2020) tax year, along with a signed statement certifying that the applicant was not required to file an income tax return and identifying all sources and amounts of income consistent with not being required to file taxes.

**Q17.** Should a postsecondary institution that receives documentation from the correctional facility (whether it be for student aid eligibility purposes or enrollment in the academic program) that includes sensitive information about a student (e.g. criminal charges or

correctional behavior records) redact that information from the documentation?

**A17.** First, a postsecondary institution may consider, as acceptable documentation, any documentation from the correctional facility that provides the information that the school has requested.

Documentation from the correctional facility is not required to be a copy of an official record from the correctional facility. A simple statement from the correctional facility may be requested and accepted instead of official correctional facility records that may include sensitive information. By accepting this type of documentation instead of official correctional facility records, postsecondary institutions are able to address issues with having records and access to this sensitive information. However, in cases where postsecondary institutions are provided documentation from correctional facilities with this sensitive information, it is at the discretion of the school (with consideration of FERPA and other privacy laws and requirements) whether or not to redact the information on the record.

**Q18.** If the name on the FAFSA of a student enrolled in a program under the experiment is different than the name being used at the correctional facility (and the correctional facility has issued a prison ID under the different name) how should the institution resolve this?

**A18.** Assuming that the FAFSA does not provide any issues with Social Security Administration matches, the school should work with the correctional facility partner to identify procedures and methods to ensure that they determine and document verification of identity for a student who is participating in the Second Chance Pell Experiment and is selected for verification of identity (verification groups V4 or V5).

**Q19.** If a student is selected for V4 or V5, what can be provided to prove high school graduation or GED? High schools sometimes do not have transcripts or transcripts are sometimes unavailable due to natural disasters.

**A19.** Normal verification documentation requirements apply to Second Chance Pell schools. We have stated in the answer to Question 16 above that documentation from the correctional facility is acceptable as verification documentation. As previously stated, a postsecondary institution may consider, as acceptable documentation, any documentation from the correctional facility that provides the information that the school has requested. Documentation from the correctional facility is not required to be a copy of an official record from the correctional facility. We also have specific guidance on verification documentation for areas subject to specific natural disaster declarations. The last guidance for natural disasters was published on August 29<sup>th</sup> ([GEN-17-08](#)).

**Q20.** If a student is working for the prison but has no documentation to verify income because the student is working for the Correctional Facility and receives state pay that goes directly to the prison, how should this be accounted for on the FAFSA?

**A20.** As we stated in the answer to Question 16 above a statement from the facility would suffice. Also, since normal verification rules apply, a statement from the student would also suffice (assuming the student was not required to file taxes).

During the conference we mentioned that aid administrators may need to exercise professional judgement to accurately reflect the amount of student “income” that would be available to pay for postsecondary education in such situations.

**Q21.** We have identified some Second Chance Pell students who are eligible to receive both Veterans Affairs (VA) educational benefits and Pell Grant funds. VA benefits may not be reduced by the amount of a student’s Pell Grant award. How should a school treat students who receive both VA educational benefits and Pell Grant funds?

**A21.** Students may not receive Title IV funds for any purpose other than educational expenses. When a student receives both Pell Grant funds and educational benefits under a VA program, both sources of aid must be treated as having paid educational expenses. Educational expenses for students enrolled in the Second Chance Pell experiment are limited to tuition, fees, books, and supplies. Once educational expenses have been covered by VA benefits and Pell Grant funds, any remaining amount of Pell Grant funds that cannot be delivered to the student must be returned by the school to the Department of Education.

**Q22.** Can incarcerated students receive Title IV credit balances?

**A22.** Yes, but only under certain circumstances.

A Title IV credit balance occurs when the total Title IV financial aid (in this case, Pell Grants) that is disbursed to a student exceeds the student’s total allowable charges. When this occurs, schools must disburse the Title IV credit balance to the student. However, under this experiment an incarcerated student’s cost of attendance is limited to tuition and fees, and books and supplies. As a result, a credit balance could only occur if the school does not supply the student’s books and supplies. In these cases, because costs for books and supplies are allowable educational expenses, then, if the student’s Pell Grant disbursements exceed the student’s charges for tuition and fees, the school would be required to provide the amount of the Title IV credit balance to the student. If the student’s tuition and fees costs do not meet or exceed Pell eligibility, then the remaining Pell eligibility would be extended to the student for books and supplies. If the school does not provide books and supplies to its students, and as a result cannot include books and supplies as an institutional charge, then the student may be eligible to receive the credit balance to help pay the cost of the books and supplies they would need for their program.

To avoid providing credit balances to students, institutions may want to consider including books and supplies as part of institutional charges and either providing books and supplies directly to students or including the costs of books and supplies in the student's tuition and fees. Under this experiment schools can provide books and supplies directly to students without offering an opt out process. If a school chooses to do this, it must ensure that it makes the books and supplies available to students below competitive market rates.

The institution should work with the student's correctional facility regarding how credit balances are disbursed. In some cases, there may be restrictions on receipt of credit balance funds imposed by the correctional facility. In these cases, the institution must abide by the requirements of the correctional facility and should consider including books and supplies as part of their institutional charges as explained above.

**Q23.** If a student withdraws and his or her books and supplies are considered institutional charges for Title IV purposes, how are the books and supplies treated in a Return of Title IV funds (R2T4) calculation?

**A23.** Institutional charges are used to determine the portion of unearned Title IV aid that the school is responsible for returning and are included in Step 5 of the R2T4 calculation.

For incarcerated students, institutional charges always include tuition and fees. However, institutional charges can also include required course materials (books, kits, tools, supplies, etc.) if the school incorporates the cost for books and supplies as part of the student's tuition, or as a separate applicable charge to the student's account, which the student does not have a real and reasonable opportunity to purchase from any other source unaffiliated with the school.

A student is considered to have a real and reasonable opportunity to purchase books and supplies if the school can document that:

- the required course materials were available for purchase at a relatively convenient location and/or online provider unaffiliated in any way with the school;
- the school does not restrict the availability of financial aid funds (meet all cash management disbursement time frames to ensure student can exercise the option to purchase the required course materials from alternative sources in a timely manner); and
- the school does not maintain practices that discourage or prevent the student from purchasing the materials from another vendor.

For incarcerated students, it may be difficult or even impossible to purchase required course materials at a vendor other than the school. Additionally, it is expected that most students will not have a real and reasonable opportunity to purchase books and supplies from a source that is not the school. Therefore, books and supplies are likely provided by the school and would be considered institutional charges.

If books and supplies are considered institutional charges, then they are listed in Step 5 of the R2T4 calculation, which could result in an increase in the amount of federal Title IV funds (under this experiment, Pell Grant funds) a school is required to return. However, if a school provides equipment to students as part of the program, the school may exclude from the total amount of institutional charges, the documented cost of unreturnable equipment or returnable equipment if

the equipment was not returned in good condition within 20 days of withdrawal. The school must be able to document that its equipment return policies are reasonable, consistent, and fair to all students, and that students are notified in writing of those policies when they enroll. Note that in these instances the documented cost of equipment is the amount the school actually paid for it, not what the school charged the students to purchase it.

In addition, any time books and supplies are considered institutional charges, either because they are formally part of tuition or a separate charge where the student does not have a real and reasonable opportunity to purchase elsewhere, the books and supplies are considered to be included in the institution's tuition and fees. Once considered part of an institution's tuition and fees, a school must meet additional cash management requirements outlined in [34 CFR 668.164\(c\)](#). These additional criteria include ensuring that the books and supplies are made available at below competitive market rates and are provided to students by the 7<sup>th</sup> day in the payment period (as noted in Q21 an opt out clause is not required under this experiment).

Finally, if books and supplies are NOT considered institutional charges, then those costs are not listed in Step 5 of the R2T4 calculation. However, as outlined in Q21, if books and supplies are not institutional charges in a prison program, then students in that program may be eligible for a Title IV credit balance.

For more information about institutional charges and the R2T4 process, please review the FSA Handbook, Volume 5, Chapter 1.

**Q24.** When does an incarcerated student subject to an involuntary civil commitment due to a forcible or nonforcible sexual offense become ineligible for a Pell Grant under the Second Chance Pell Experiment?

**A24.** An incarcerated student who is subject to an involuntary civil commitment due to a forcible or nonforcible sexual offense becomes ineligible for a Pell Grant when the student is released from their incarceration and is transferred to the facility in which they are required to complete their involuntary civil commitment, or otherwise begins to actively begin their involuntary civil commitment.

**Q25.** When a student (including an incarcerated student) fails SAP due to issues related to COVID-19, what options are available to the school and student with regards to the student's Satisfactory Academic Progress (SAP)?

**A25.** As described in the Department's [May 15, 2020 electronic announcement \(EA\)](#), if a student is unable to complete courses due to issues related to COVID-19, an institution is allowed to exclude from the quantitative component (pace measurement) of satisfactory academic progress (SAP) attempted credits the student was unable to complete as a result of the COVID-19 national emergency as long as the institution can reasonably determine that the student's failure to complete those credits were the result of a COVID-19 related circumstance. Allowable circumstances include, but are not limited to, illness of the student or family member, need to become a caregiver or first responder, economic hardship, added work hours, loss of childcare, inability to continue with classes via distance education, inability to access wi-fi due to closed facilities. The Department also noted that it is not necessary for a student to have filed an SAP appeal for an institution to exercise this flexibility. The school has broad latitude when working with the student as far as the type of documentation needed to support this COVID-19 SAP relief based upon the individual student's circumstances.



In addition, if the school has an SAP appeal policy, a student may appeal based on issues related to COVID-19. The Department specifically indicated in a [March 5, 2020 EA](#) that an institution may factor in circumstances related to an outbreak of COVID-19 when evaluating a student's SAP appeal, including, but not limited to, the illness of a student or family member, compliance with a quarantine period, or the general disruption resulting from such an outbreak. Circumstances related to COVID-19 may form the basis of a student's SAP appeal even if not specifically articulated in the institution's SAP policy.

The SAP flexibilities became effective for periods that included March 13, 2020 and continue to be applicable for SAP assessments made through the end of the payment period that includes the last date that the national emergency is in effect. Schools are permitted, but not required, to incorporate these flexibilities into their SAP policies.

**Q26.** Can a school participating in the Second Chance Pell experiment enter into a written arrangement with another institution that is not participating in the experiment to offer a Title IV eligible program under the experiment?

**A26.** Written arrangements between Title IV eligible institutions have been permitted since the beginning of the experiment as long as all institutions that are part of the arrangement are experiment participants with fully executed Program Participation Agreement (PPA) amendments. The institution(s) must comply with the provisions for written arrangements outlined in [34 CFR 668.5\(a\)](#), [\(d\)](#) and [\(e\)](#).

Effective July 1, 2022 the Department also allows participating institutions to enter into written arrangements with *other Title IV eligible institutions that are not part of the experiment* under the following conditions:

- Written arrangements between *Title IV-participating institutions* are permitted (according to [34 CFR 668.5\(a\)](#)). Written arrangements with an ineligible entity are **not permitted** under the experiment.
- To enter into a written arrangement involving incarcerated students that are eligible for Pell Grants under the experiment, a participating institution **must** seek approval from the Department. To do this, the participating institution is required to provide the name and OPE ID of the institution(s) in which they are entering into a written arrangement to the ESI Team ([ExperimentalSites@ed.gov](mailto:ExperimentalSites@ed.gov)). The ESI Team will then notify the participating institution if they will be permitted to enter into a written arrangement with the non-participating institution(s) for experiment purposes.
- If the written arrangement is approved, the participating institution must disclose to affected students that they are being taught under an arrangement with another institution as described in [34 CFR 668.5\(e\)](#).
- Written arrangements must include the required elements outlined in [34 CFR 668.5\(d\)](#). For written arrangements approved by the Department for the Second Chance Pell experiment, the institution participating in the experiment must be the "home" institution, determine a student's eligibility, and make all the disbursements of eligible, experimental Pell Grant funds to incarcerated students. In addition, the participating institution is responsible for all other Title IV related requirements for a student including SAP. The institution participating in the experiment is also responsible for reporting on all applicants whose instruction or potential instruction would be affected by the written arrangement and must work with the partnering

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institution(s) to collect and report all information needed to comply with the experiment reporting requirements, including the monthly and final year reporting templates in COD and the annual survey.