Because a school’s eligibility does not necessarily extend to all its programs, the school must ensure that a program is eligible before awarding federal aid funds to students in that program. The school is responsible for determining that a program is eligible. For example, the program must be included in the notice of accreditation and must be authorized by the appropriate state to offer the program.

Institutions of higher education may offer associate, bachelor’s, graduate, or professional degrees; at least a two-year program that is acceptable for full credit toward a bachelor’s degree; or at least a one-year training program that leads to a degree or certificate (or other recognized educational credential) and prepares students for gainful employment in a recognized occupation.²⁴⁷

As described above, some for-profit institutions may offer liberal arts baccalaureate degrees. All other for-profit institutions, in contrast, may only offer programs that provide training for gainful employment²⁴⁸ in a recognized occupation and must meet at least one of the following two criteria:

1. 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—
   A. Provides a program of training to prepare students for gainful employment in a recognized profession; and
   B. Admits students who have not completed the equivalent of an associate degree; or

2. 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—
   A. An undergraduate program that requires the equivalent of an associate degree for admissions; or
   B. A graduate or professional program.²⁴⁹

A program is also eligible if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that:

1. Has a verified completion rate of at least 70%, as determined in accordance with the regulations of the Secretary;
2. Has a verified placement rate of at least 70%, as determined in accordance with the regulations of the Secretary; and
3. Satisfies such further criteria as the Secretary may prescribe by regulation.²⁵⁰

The credit hour is a method used to measure the quantity of student learning. In the past, the Department left the definition to accrediting agencies that were often inconsistent and lax in applying their own credit hour requirements to institutions. In order to address school abuses, the Department, in 2010, adopted regulations that define “credit hour.”²⁵¹ The Department also spelled out when an institution must measure a program in clock hours and how to convert clock hours to credit hours.²⁵² In 2015, the Department eliminated the provisions that required certain programs to be measured in clock hours.²⁵³ The Department reasoned that “the conversion formula alone is sufficient to ensure that clock hours are appropriately converted to credit hours without regard to any State requirement or role in approving or licensing a program.”²⁵⁴

In 2010, the Department also adopted a regulation allowing institutions to offer “direct assessment” programs, which are instructional programs that use methods other than credit or clock hours to assess student learning ²⁵⁵ Although the institution must “establish a methodology to reasonably equate the direct assessment program to credit or clock hours,” these programs involve self-paced independent study rather than in-class instruction. Student competency may then be assessed through a number of methods, including papers, examinations, and presentations. Institutions must calculate credit or clock hour equivalencies for these programs.²⁵⁶

The Department has permitted a limited number of institutions to provide direct assessment programs for federal financial aid purposes and has indicated its intent to approve additional experimental programs.²⁵⁷ Unfortunately, this could become another area of abuse by for-profit schools. In 2014, the Office of Inspector General issued an audit finding that the Department is not doing enough to ensure that direct assessment programs meet federal requirements before approving them.²⁵⁸

In July 2018, the Department announced its intention to conduct negotiated rulemaking to revise various regulations related to its oversight of schools participating in the federal student aid program, including, among other topics, the credit hour and direct assessment rules.²⁵⁹ As of March 2019, that rulemaking has not been completed.
Footnotes


248 [248] See § 13.3.2.4 [1], infra (discussing the definition of gainful employment).


251 [251] 75 Fed. Reg. 66,832 (Oct. 29, 2010), codified at 34 C.F.R. § 600.2. See also U.S. Dep’t of Educ., Dear Colleague Letter, GEN-11-06, Guidance to Institutions and Accrediting Agencies Regarding a Credit Hour As Defined in the Final Regulations Published on October 29, 2010 (Mar. 18, 2011).

252 [252] 34 C.F.R. § 668.8(l).


255 [255] 34 C.F.R. § 668.10. See also 20 U.S.C. § 1088(b)(4) (establishing the eligibility of direct assessment programs for Title IV funding); U.S. Dep’t of Educ., Dear Colleague Letter, GEN-13-10, Applying for Eligibility for Direct Assessment (Competency-Based) Programs (Mar. 19, 2013).

256 [256] 34 C.F.R. § 668.10(a)(3).

257 [257] 80 Fed. Reg. 72,052 (Nov. 18, 2015) (Department’s announcement of intent to expand program); 79 Fed. Reg. 44,429 (July 31, 2014) (notice inviting limited number of schools to apply to offer competency-based education programs); Paul Fain, Competency-Based Education Gets a Boost from the Education Department, Inside Higher Ed (July 23, 2014).


1.7.1.3 Program Requirements

[1] https://library.nclc.org/nclc/link/SL.13.03.02.04