

INFORMATION
August 3, 2012

HIGHER EDUCATIONAL AIDS BOARD

BOARD REPORT #13-01

TALENT INCENTIVE PROGRAM (TIP) RULE CHANGE



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

**REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN**

APR 16 2012

Mr. Richard Moriarty
Assistant Attorney General
Wisconsin Department of Justice
17 West Main Street
P.O. Box 7857
Madison WI 53707-7857

Ms. Sherrie Nelson
Interim Administrator
Wisconsin Higher Educational Aids Board
P.O. Box 7885
Madison, WI 53707-7885

Re: OCR Case No. 05-06-4071
Wisconsin Higher Educational Aids Board

Dear Mr. Moriarty and Ms. Nelson:

This is to notify you that we are closing the monitoring of the above-referenced complaint based on the actions taken by Wisconsin Higher Educational Aids Board (Board) to implement the Agreement it submitted to OCR on September 30, 2010, to resolve the non-compliance findings made by the U.S. Department of Education, Office for Civil Rights (OCR), in the above referenced case.

By letter dated December 22, 2008, OCR notified you that the Board was not in compliance with Title VI of the Civil Rights Act of 1964 (Title VI) because the Board had not justified its use of race and national origin in the Talent Incentive Program (TIP) as required by Title VI and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of Federal financial assistance. In a letter dated September 30, 2010, you submitted a proposal to resolve these findings. You indicated that the Board would remove race/national origin as a non-traditional disadvantage eligibility criterion for TIP scholarships beginning with the 2011-12 academic year. As an interim measure, the Board immediately required all TIP nominations for the 2010-11 academic year that identified race as an eligibility factor to also identify another non-traditional disadvantage factor, and the Board provided documentation of this change. Furthermore, the Board indicated that, for the 2011-12 academic year, it would further revise the TIP nomination forms to remove race as a non-traditional disadvantage eligibility criterion. The Board also agreed that it would revise all related instructions and application materials for the program and information available on the

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Mr. Richard Moriarty
Ms. Sherrie Nelson
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Board's website consistent with these changes, and to provide documentation to OCR showing that the agreed upon changes had been implemented. OCR accepted these commitments as sufficient to resolve this matter, subject to monitoring of the Board's implementation of the agreement.

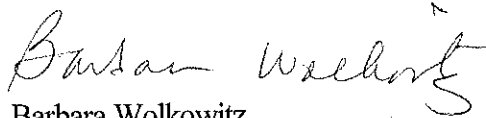
In accordance with the Agreement, you submitted monitoring information on November 23, 2010, February 16, 2011, September 9, 2011, and March 28, 2012. This information indicates that the Board is now using a nomination form and instructions that do not identify race or national origin as a non-traditional/ disadvantage eligibility factor. See <http://heab.state.wi.us/finadmin/forms.html>. In addition, the FAQ's on the Board's website have been revised to make clear that the race and national origin criteria have been eliminated. See <http://heab.state.wi.us/faq/tip.html>.

After carefully considering the data submitted by the Board, OCR has determined that the Board has fulfilled the terms of the agreement and is in compliance with the Title VI regulation pertaining to the allegation raised in this complaint. Accordingly, OCR has closed this case effective the date of this letter.

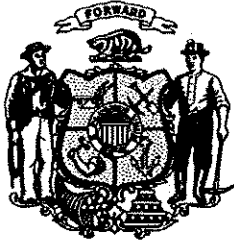
This letter sets forth OCR's determination in an individual OCR case. The letter is not a formal statement of OCR policy and should not be relied upon, cited or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may file a private suit in federal court whether or not OCR finds a violation.

We wish to thank you for the cooperation extended to OCR. Please contact me at (312) 730-1616 or barbara.wolkowitz@ed.gov if you have any questions.

Sincerely,



Barbara Wolkowitz
Senior Attorney



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

December 2, 2011

Sherrie Nelson
Interim Administrator
Wisconsin Higher Educational Aids Board
P.O. Box 7885
Madison, WI 53707-7885

RE: Statement of Scope for Modifications to HEA 5.04

Dear Administrator Nelson,

I hereby approve the statement of scope submitted on November 3, 2011, pursuant to Wisconsin Statutes § 227.135, in regards to modifications to HEA 5.04. You may send the scope statement to LRB for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "S. Walker".

Scott Walker
Governor



State of Wisconsin Higher Educational Aids Board

Scott Walker
Governor

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November 2, 2011

Honorable Scott Walker
115 E Capitol
Madison WI 53702

Re: Talent Incentive Grant Eligibility

Dear Governor Walker:

As required in State Statute 227.135 I am requesting a change in the HEA 5.04 administrative rule relating to the Talent Incentive Grant eligibility.

OBJECTIVE

The Higher Educational Aids Board would like to make the following changes to administrative rule HEA 5.04 Talent Incentive Grant Eligibility (2)(a) the student is a member of one of the minority groups defined in s. 39.44 (a) (a), Stats. HEAB would like to delete this sentence thereby eliminating the minority group as part of the non-traditional status criteria.

EXISTING POLICY

In August, 2010 we changed our internal policy to exclude the race criteria from eligibility and collect that data for information purposes only. The change was due to a complaint that had been filed with the U.S. Department of Education; Office of Civil Rights. The Higher Educational Aids Board was notified of this complaint in September, 2006. The complaint alleged that the Board's Talent Incentive Program (TIP) Grant discriminates against non-minority students on the bases of race and national origin by denying them an equal opportunity to participate in a financial aid program. A resolution was achieved to this complaint in August, 2010 by eliminating the race element in the non-traditional student status criteria.

STATUTORY AUTHORITY FOR THE RULE

39.28(1) The board shall administer the programs under this subchapter and may promulgate such rules as are necessary to carry out its functions.

ESTIMATE OF TIME TO DEVELOP RULE

The Higher Educational Aids Board estimates that state employees may spend one week or 40 hours to develop the rule and the use of other resources necessary for development. This estimate does not include the hours used by the Legislative Reference Bureau.

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ENTITIES THAT MAY BE AFFECTED

Students who are uniquely needy and enrolled at least half-time as first time freshmen at public and private non-profit institutions in this state and sophomores, juniors and seniors who received such grants as freshmen would **not** be affected by this change in administrative rule.

SUMMARY AND PRELIMINARY COMPARISON

In summary, the change to the administrative rule will fully satisfy the resolution agreed upon in August, 2010 and eliminates the race element in the criteria.

If you have any questions, please feel free to contact me. Thank you for your consideration of this matter.

Respectfully submitted,



Sherrie Nelson,
Interim Administrator
WI Higher Educational Aids Board
Sherrie.nelson@wi.gov
608-267-2944