

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

**DCF**

**Department for Children and Families**

**BULLETIN NO.:** 10-16F

**FROM:** Pam Dalley, Interim Deputy Commissioner  
Economic Services Division

**DATE:** April 28, 2011

**SUBJECT:** Reach Up and Postsecondary Education Program Rules

**CHANGES ADOPTED EFFECTIVE** 7/1/11

**INSTRUCTIONS**

- Maintain Manual - See instructions below.**
- Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin: 10-16F**
- Information or Instructions - Retain until \_\_\_\_\_**

**MANUAL REFERENCE(S):**

- 2211
- 2341
- 2342
- 2400
- 2451

This bulletin adds provisions to the Postsecondary Education Program rules that are necessary for the department (DCF) to claim financial assistance grants with state funds as Temporary Assistance for Needy Families (TANF) Maintenance of Effort, revises Reach Up rules pertaining to interviews, and removes an obsolete subsection pertaining to phasing in implementation of rules at the end of Vermont's Welfare Reform Demonstration Project in July 2001.

Initially the bulletin also included proposed rules for changing sanction amounts and striking sanctions. Statutory language repealing those sanction provisions is currently before the General Assembly. There does not appear to be any opposition to the repeal. Those proposed sanction rules have, therefore, been removed from this bulletin.

***Postsecondary Education Program (PSE)***

This bulletin allows the department, at the discretion of the Commissioner, to fund financial assistance of certain PSE families with state funds claimed as TANF Maintenance of Effort (MOE) when the participant is meeting a federal TANF work requirement or it furthers the purposes of specific state law. It also adds a provision to the PSE Plan Requirements that the applicant for PSE specify how hours of participation will be documented and verified monthly.

***Reach Up Financial Assistance Eligibility***

To encourage and make it easier for caretakers and parents of potentially eligible children, this bulletin revises the rules to provide that in child-only cases the default for application and review interviews be by telephone. By not requiring these applicants to come to the office, this process will be easier for the caretaker guardians and disabled adults, the predominant group of applicants in child-only cases. The change in process also helps to streamline the application process and should result in quicker eligibility determinations. Child-only applicant and recipient families who want to have a face-to-face interview shall be provided one upon request.

***Reach Up Services Component***

This bulletin removes obsolete rules for phasing-in implementation of compliance with the federal Temporary Assistance for Needy Families (TANF) Program at the end of Vermont’s Welfare Restructuring demonstration project (WRP) on July 1, 2001 to bring Vermont into compliance with TANF law and regulations. It also corrects rule numbering errors.

***Changes to This Bulletin Since Initial Filing***

Since the proposed filing, the department has withdrawn its proposed revisions to Reach Up sanction rules at 2375, 2376 and 2379.

***Specific Changes to Rule Sections***

<b>Table of Contents</b>	Removes “Table – Work Ready Dates” at 2341 Removes “Implementation of Phase-In Plan” at 2342.
<b>2211.2</b>	Adds provision at 2211.2 that application interviews be conducted by telephone when an individual applies for financial assistance for only a child or children, unless such applicant requests a face-to-face interview.
<b>2341.5</b>	Removes subsection 2341.5, For Participants Receiving Financial Assistance Before July 1, 2001
<b>2342</b>	Removes section 2342, Implementation of Phase-In Plan for Adults Receiving Assistance Before July 1, 2001.
<b>2400</b>	Adds provision for funding some Postsecondary Education Program financial assistance grants with state funds claimed as TANF Maintenance of Effort (MOE).

## **Rulemaking Process**

### ***A. Informal Public Input Process***

1. The proposed rule was filed with the Interagency Committee on Administrative Rules (ICAR) on October 1, 2010 and presented at its meeting on October 18, 2010.
2. The proposed rule was filed with the Secretary of State's Office and the Legislative Committee on Administrative Rules (LCAR) on October 22, 2010.
3. The Secretary of State published notice of rulemaking on their website on October 27, 2010.
4. The department posted the proposed rule on its website <http://dcf.vermont.gov/esd/rules> and notified advocates, subscribers, and members of the public of the proposed rule.
5. The department invited advocates to an informational meeting about the proposed rules on November 23, 2010. Christopher Curtis of Vermont Legal Aid, Felicia Messuri of Champlain College, and Pat Rodgers of Community College of Vermont attended and participated in the meeting.

### ***B. Formal Notice and Comment Period***

1. A public hearing was held on Monday, November 29, 2010 at 1:00 p.m., in the DCF Commissioner's Conference Room, 5 North, State Office Complex, Waterbury, Vermont. There were no attendees.
2. The comment period on the proposed rules closed on Monday, December 6, 2010 at 4:30 p.m. The department received comments from Christopher Curtis of Vermont Legal Aid, Carol Moran-Brown of Champlain College, Pat Rodgers of Community College of Vermont, and three staff members of the Economic Services Division (ESD) of DCF.
3. On Thursday, April 21, 2011 copies of the final proposed rule were filed with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR).
4. The department presented the rule to LCAR on April 28, 2011.
5. The department expects to file the final rule no later than June 15, 2011.
6. The rule is expected to be effective on July 1, 2011

### **Comments and Responses**

Vermont Legal Aid and three employees of the Economic Services Division of the Department for Children and Families commented on the proposed sanction rules. Those comments and the department's responses are not included in this bulletin because they are no longer relevant. They will be provided electronically upon request to Afsar Sultana at [afsar.sultana@ahs.state.vt.us](mailto:afsar.sultana@ahs.state.vt.us).

The department received comments on the proposed PSE rules from Champlain College and Community College of Vermont.

#### **2451 PSE Plan Requirements**

**Comment:** One commenter proposed that the PSE rule change be delayed until questions and concerns about implementation are answered. Almost 50 percent of 77 PSE students enrolled in Community College of Vermont take 10-15 credits. Only six students take 15 or more credits, and only these six could satisfy a 30 hour work requirement with the current ratio of only one hour of study time for each hour of college class. Not all colleges track attendance so this would be challenging.

**Response:** The rule at 2400 specifies that, “[at] the discretion of the commissioner, the department may fund certain families’ PSE financial assistance with state funds claimed as TANF Maintenance of Effort (MOE) when such funding meets the intent of TANF regulations and the participating family is meeting the applicable Reach Up work requirement with hours in postsecondary education or other approved work activity.” The intent of this proposal is to preserve TANF block grant funds and avoid potential fiscal penalties by getting federal work participation credit for participants who are already engaged in activities that would meet a comparable Reach Up work requirement. An analysis of PSE caseloads indicated that some PSE participants would meet the criteria under the proposed rule.

The current one-to-one ratio of study time to class time is the ratio allowed under federal regulations. DCF’s research into colleges’ expectations shows that as a matter of course at least two hours of study time is expected for each hour of class time as a general rule. DCF will request federal approval for the higher ratio. The phrase “at the discretion of the commissioner” allows sufficient flexibility to implement the rule when procedures are in place. DCF does not, therefore, agree that the PSE rule change needs to be delayed.

**Comment:** One commenter states that the proposed rule requiring monthly verification of PSE students’ classroom attendance reveals to professors their status as financial assistance recipients, thus violating their right to confidentiality. The commenter asks that students’ rights to confidentiality be paramount as the state develops a process to implement this rule and proposes an approach whereby students self-report their attendance to case managers, who periodically spot-check with professors to confirm students’ reports.

**Response:** DCF has a strong commitment to confidentiality. DCF must, however, balance confidentiality rights with state and federal regulations requiring verification and documentation. Financial assistance program rules require verification to accurately determine eligibility and to satisfy federal TANF block grant reporting requirements.

Applicants and participants are the primary sources for information and verification needed to determine initial or continuing financial eligibility. In situations where third party confirmation is required, DCF is as flexible as possible within regulatory boundaries. While DCF has limited flexibility with respect to TANF reporting regulations, DCF will collaborate with college staff to implement a system that meets federal requirements while protecting students' rights.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking go to the website of the Office of the Vermont Secretary of State at: <http://vermont-archives.org/aparules/> or call Louise Corliss at 828-2863

For information on upcoming hearings before the Legislative Committee on Administrative Rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedule/schedule2.cfm> or call 828-5760.

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Vertical lines in the left margin indicate changes.

### **Manual Maintenance**

If you print copies of on-line rules for a printed manual, remove the pages in the "Remove" column on the left and replace them with the pages in the "Insert" column on the right. When deleted rules are not replaced with updated rules or when interpretive memos are removed, the "Insert" column says to insert "Nothing."

### **General Assistance Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
TOC 2300 pgs 1-2	(01-06F)	TOC 2300 pgs 1-2	(10-16)
2211 pgs. 1- 4	(08-10)	2211 pgs. 1- 4	(10-16)
Nothing		2211 p.5	(10-16)
2341 Pgs 2 - 3	(00-22)	Nothing	
2342	(00-22)	Nothing	
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Methods of Investigation

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2211 Methods of Investigation

The applicant is the primary source of information about his need and eligibility for aid or benefits. Verification of information furnished on the signed application and through interviews is not required except as specified at 2211.3 Verification or elsewhere in rules.

Reliance on the applicant as the primary source of information to establish eligibility recognizes the right to privacy, but also places responsibility on the applicant to furnish necessary information completely and accurately or, when needed, to give consent to obtain such information elsewhere. The signature of an applicant or spouse, authorized representative, or legal guardian on an application must certify under penalty of perjury that information on the application pertaining to all members of the assistance group is correct and complete. Only one adult applicant signature is required (2208, Application). Department responsibility to assist an applicant to establish eligibility requires careful explanation and interpretation of program eligibility criteria and information needed to assess the applicant's circumstances against such eligibility criteria.

An applicant has a right to refuse to give information, or to submit required proof. Such refusal of information or action necessary to establish eligibility will result in denial or closure of aid or benefits. Willful misrepresentation of applicant circumstances will also result in legal action under fraud statutes. Department staff shall make every effort to assure full applicant understanding of the consequences of refusal to take necessary action to establish eligibility and/or misrepresentation of individual circumstances.

An individual may apply for aid or benefits through another person; for example: an authorized representative; a person acting responsibly for an incompetent or incapacitated individual; surviving relative or estate administrator of a deceased person. The individual acting for the applicant is, in such situations, considered the primary source of information, subject to the same rights, responsibilities and consequences for the applicant as an applicant acting directly for himself.

2211.1 Statement of Need

The applicant's signed statement of need, contained within the application forms for the programs applied for, is the primary source document for information about the applicant's circumstances.

Application forms are designed to be as clear and simple to complete as possible, with due regard for the information necessary to establish eligibility. Appropriate descriptions of applicant rights and responsibilities, including penalties for willful misrepresentation of circumstances, are set forth immediately before the applicant's signature.

A signed Application form shall be sufficient to apply for Reach Up.



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Methods of Investigation

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2211.2 Interviews

An interview is required for all Reach Up applications. Except as specified below, this interview shall be a personal face-to-face interview conducted privately with the applicant, who may have a representative present for assistance. Such interviews may be conducted in the applicant's home or another mutually convenient location when individual circumstances of health or unusual transportation problems make an office interview difficult.

The department will do telephone interviews of applicants who are not mandatory members of the assistance group when they apply for financial assistance only on behalf of the children in the household; the department will provide a face-to-face interview at the applicant's request. Applicants who meet these criteria include, and are not limited to, caretaker guardians whose income or resources exceed the limits for inclusion in the assistance group or parents who are not included in the assistance group because they receive SSI/AABD benefits.

2211.3 Verification

Verification, defined as a written entry in the case record of third-party or documentary confirmation of facts stated by an applicant, shall be required for the items listed below when the department is processing an initial application or eligibility redetermination for Reach Up financial assistance. Verification of individual items on this list is required when the participant reports a change in circumstances relating to that item or when the department receives information from some other source that indicates the most recent information reported by the participant may not be correct.

- A. All non-excluded income (amount and source).
- B. All non-excluded resources, within \$200 of the limit.
- C. Actual dependent care costs claimed as a work expense and used as a deduction from earned income.
- D. Shelter costs incurred.
- E. High risk pregnancy for a woman with no dependent children.
- F. Paternity of biological father not married to child's mother.
- G. Collateral information affecting eligibility or benefits.
- H. Application for a social security number if the individual does not have one.

Verification may be required for the following, if questionable:

- A. Identity and residency.
- B. Age, citizenship, or alien status for any member of the assistance group.
- C. Any other information that affects eligibility or amount of benefits.

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### Methods of Investigation

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Written verification statements shall include sufficient detail to enable independent reviewer evaluation of the reasonableness of the resulting eligibility decision, including but not limited to a description of method used, dates, sources, summary of information obtained, and any computations required. If the wage earner cannot furnish complete pay stubs or similar verification, a statement of wages must be obtained from the employer.

The department shall verify and document earnings received in the prior 30 days for applicants and participants. For continuing eligibility, earnings must be verified at least once every six months

However, if the earnings received in this 30-day period are not representative of current or future circumstances, then a best estimate must be made based on information and documentation obtained during the eligibility determination or redetermination. In such cases this alternative figure will be used to estimate monthly earnings.

When earnings have just begun or changed, available paystubs, a statement from the employer on wages and predicted hours of employment, or similar verification shall be used to make a best estimate of future earnings.

A change in dependent care costs is defined as a change in one or more of the following circumstances relating to the care provided:

- A. the rate paid (hourly, daily, weekly, monthly) for required care;
- B. person or facility providing care;
- C. amount (number of hours per week) of care required; or
- D. number of children or incapacitated adults requiring care.

A variation in dependent care costs caused solely by a school vacation, or illness or vacation on the part of the employed participant, lasting no longer than two weeks, shall not be considered a change in dependent care costs.

The following standard is to be applied when monthly dependent care costs vary as a result of minor fluctuations in the amount of employment-related dependent care required. If total dependent care costs paid in the reporting month are no greater than 25 percent above or no less than 25 percent below the most recent monthly dependent care costs, the variation in dependent care costs will not fall within the department's definition of a change in dependent care costs and, therefore, will not require verification.

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Methods of Investigation

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Verification of income from self-employment requires careful evaluation by the eligibility worker considering the following:

- A. If the applicant or participant has been self-employed for a period of time and has reported this income to IRS, the latest income tax return can be used as one source, providing it reflects the current situation, for example, same type of self-employment, approximately the same number of hours and wages for employment.
- B. An applicant or participant who has recently become self-employed shall provide a written statement of potential monthly income and shall be required to maintain accurate records (for example, income received, source of income, hours of work) and to provide such records for bi-monthly review. In most cases this bimonthly review will continue until income has been reported to IRS. That income tax return can then be used as the primary source of verification as long as it continues to reflect the current situation.

Denial or closure shall result if an applicant or recipient:

- fails without good cause to submit documentation necessary for verification;
- fails without good cause to consent to verification of any eligibility factor;
- fails without good cause to cooperate in any investigation necessary to support an affirmative decision of eligibility.

Good cause reasons include:

- A. Natural disasters, such as fires or floods, having a direct impact on the applicant/recipient or an immediate family member.
- B. Illness of such severity on the part of the applicant/recipient or an immediate family member that the applicant/recipient is unable to direct his or her personal affairs.
- C. Refusal of an employer to provide earned income verification, or the unavailability of an employer to provide verification before the deadline.
- D. Lost or stolen mail which is confirmed by the Postal Service.
- E. Refusal of a landlord to verify housing expense.
- F. Death of the applicant/recipient or an immediate family member.
- G. Inability of a third party (e.g. Social Security Administration) to provide the necessary documentation within the designated time period.

Other reasons may be found to constitute good cause with the approval of the District Director or his or her designee.

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Methods of Investigation

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2211.4 Collateral Sources

Contact with sources other than the applicant may be made concerning his eligibility for aid or benefits. These contacts are limited to interviews, telephone calls, or correspondence necessary to obtain information required to make a decision on eligibility. Information requested from collateral sources is limited to the specific eligibility factors in question and may be made without the consent of the client when information by the client is either questionable or insufficient to determine eligibility.

Common collateral sources are relatives, landlords, employers, town officials, Town Service Officers, public records, doctors, medical facilities, etc. Other agencies which have worked with the client are generally the best source of collateral information.

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Work-Ready Determination

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2341 Work-Ready Determination

The determination that participants are work-ready occurs at different times, depending on the following rules.

2341.1 When Determined Eligible

Principal-earner parents, parents sharing the work requirement, and adults assigned to the work-ready phase or employment phase at the end of a past period of participation in Reach Up must begin fulfilling their work requirement as soon as they meet with their case manager for the first time.

2341.2 During the First 12 Months

During the first 12 cumulative months of participation in Reach Ups financial assistance component, participants not already determined work-ready and not subject to any barriers are determined work-ready as soon as they are capable of participating in a single countable work activity or any combination of countable work activities sufficient to fulfill their work requirement.

2341.3 12th Month of Financial Assistance

A participant who has received 12 cumulative months of financial assistance in the pre-work-ready phase (rule 2322.2) shall be deemed work-ready on the first day of the 13th month the individual receives assistance and is subject to the applicable work requirement. In rare circumstances, if a participants case manager concludes that the participant cannot meet the applicable unmodified work requirement, the case manager shall submit a request for an extension of the work-ready date (rule 2341.4).

2341.4 Pre-Work-Ready Phase Extended

The case manager shall submit a request for an extension of the participants pre-work-ready phase in writing and specify the length of the extension, not to exceed six months. The request shall include the following:

- the particular reasons why the participant cannot meet the full work requirement;
- the date the reasons were recognized and the efforts made so far to address them;
- the number of hours the participant can engage in work activities;
- the length of the requested extension; and
- the remedial actions and services to be provided to the participant to enable fulfillment of the requirement.

The case manager shall submit a request for an extension to the district director and the commissioner or the commissioner's designee for approval. The district director and the commissioner or the commissioner's designee shall review the request and approve it, provided that the participant cannot meet the work requirement, the participant does not qualify for a modification of the work requirement (rule 2360), and the information in the request is supported by the documentation in the participant's file and FDP. If the extension is approved, they shall set a new work-ready date within the next six months.

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Post Secondary Education (PSE)

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2400 Postsecondary Education (PSE)

The postsecondary education (PSE) program is a solely state-funded program to assist parents in eligible low-income families to obtain two- or four-year postsecondary undergraduate degrees in fields directly related to employment. The PSE program provides financial assistance, case management, and support services. In eligible two-parent families, only one parent at a time may participate in the PSE program and the second parent must be employed if able to work. Eligibility is based on financial and non-financial criteria.

The PSE program is not an entitlement program. Participation may be denied to applicants meeting the eligibility criteria if program funds are insufficient for all eligible applicants to participate. If program funds are insufficient to serve all eligible applicants, the priorities for admission to the PSE program established by these regulations will be followed.

At the discretion of the commissioner, the department may fund certain families' PSE financial assistance with state funds claimed as TANF Maintenance of Effort (MOE) when such funding meets the intent of TANF regulations and the participating family is meeting the applicable Reach Up work requirement with hours in postsecondary education or other approved work activity.

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PSE Plan Requirements

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2451 PSE Plan Requirements

- A. Each applicant or participating parent's PSE plan shall include the following:
1. The name and location of the college at which the applicant or participating parent is matriculating or matriculated.
  2. A statement of the occupational goal that the applicant or participating parent intends to pursue after receiving the postsecondary undergraduate degree and why the applicant or participating parent wishes to pursue this occupation.
  3. The labor market area in which the applicant or participating parent plans to seek employment in this occupation.
  4. The "field directly related to employment" in which the participating parent or applicant proposes to complete the postsecondary degree and the following supporting information that demonstrates the necessary connection between the parent's employment goal and the field of study:
    - a. Documentation from three or more employers demonstrating the proposed field of study is these employers' preferred postsecondary field of study for the occupation the parent seeks to enter. Each employer documentation shall consist of one of the following: a Department of Labor (or comparable agency in another state) job listing, a job listing from a college placement office, a classified advertisement, information about desired qualifications for a position from an employer's web site, a letter from an employer, or comparable employer-specific documentation. When this documentation is available for at least one but fewer than three employers in the labor market area in which the parent intends to seek employment, the parent may substitute documentation from an employer in any labor market area in Vermont or in any labor market area that has boundaries contiguous with Vermont's borders.

This documentation requirement shall be waived in the case of a degree program in a field of study that is closely linked to an occupation or is "occupation-specific." Examples of such programs include a degree program in dental hygiene when the applicant seeks to become employed as a dental hygienist or a degree program in accounting when an applicant seeks to become employed as an accountant.
    - b. With reference to the employers for which documentation is submitted pursuant to "a" above, the job titles for positions in the parent's chosen occupation and the entry-level wage for each position. When documentation of field of study preference in "a" above has been waived, documentation from three sources of the entry-level wage in the chosen occupation remains a requirement.
    - c. The job titles for other occupations that can be pursued with this degree and field of study.

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PSE Plan Requirements

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- d. A description of the career exploration activities the parent has completed to gather this information.
  - e. A justification for the need of a four-year degree to achieve the occupational goal if the applicant is seeking a four-year degree in a field in which a two-year degree is commonly accepted for entry into the occupation.
5. A schedule that ensures that the applicant or participating parent will complete the coursework necessary for a two-year postsecondary undergraduate degree within three years and for a four-year postsecondary undergraduate degree within five years or a shorter time period if required by paragraph 6 or 7 below. The schedule should reflect consideration of and address the individual's existing circumstances and responsibilities that may reasonably affect the applicant's ability to maintain the schedule and eligibility, such as the age of the participant's youngest child, child care and transportation.
- An initial schedule for degree completion may exceed the three- and five-year time frames only when the applicant has provided documentation, to the satisfaction of the commissioner, that additional time is necessary for completion due to the effects of the applicant's disability. Subsequent modifications to the schedule for degree completion may be made pursuant to rule 2454.
6. A schedule reflecting that, when an applicant has at least 15 credit hours of course credits that can be applied to the degree being pursued, four months for every 15 credit hours of course work that can be applied to the degree has been deducted from the three-year time period allowed for a two-year postsecondary undergraduate degree or the five-year time period allowed for a four-year postsecondary undergraduate degree.
  7. A schedule reflecting that, when a participating parent who has already obtained a two-year postsecondary undergraduate degree through participation in the PSE program is pursuing a four-year postsecondary undergraduate degree, the time period that was used to obtain the two-year degree has been subtracted from the five-year time period allowed for a four-year degree.
  8. The estimated cost per semester or academic term, including tuition and fees that apply to all students, and the financial resources the applicant or participating parent plans to use to pay for these costs.
  9. During the last year of the degree program, the parent shall seek employment using the services of the college's career placement office. If the college has no career placement office, the parent shall seek employment using the services of the Department of Labor's local career resource center.
  10. The number of hours scheduled for class time, the estimated number of hours needed for studying and preparing coursework outside of the classroom, and the method of documenting and verifying actual hours of participation and satisfactory progress.