

**COALITION FOR
INTERNATIONAL EDUCATION**
Promoting U.S. Global Competence

April 26, 2016

MEMORANDUM

TO: Ted Mitchell, Under Secretary of Education
Lynn Mahaffie, Acting Assistant Secretary for Postsecondary Education
Mohamed Abdel-Kader, Deputy Assistant Secretary for International and Foreign Language Education
U.S. Department of Education

RE: U.S. Department of Education's March 8, 2016 Memorandum to HEA-Title VI FLAS Project Directors and Coordinators on "FLAS Fellowships for Beginning Level Language Training"

The undersigned organizations express our appreciation for the continuing partnership between the Department of Education and our nation's institutions of higher education under the international and foreign language education programs of HEA-Title VI and Fulbright-Hays 102(b)(6). Given our unprecedented global challenges, these programs play a critical role in ensuring the development of U.S. human resource capabilities vital to our national security, economic competitiveness, global engagement, and all levels of education, especially in the less commonly taught languages (LCTLs) and regions of the world.

It has come to our attention that the Department of Education is changing a long-standing policy of allowing the award of Academic Year and Summer Fellowships to graduate students for beginning level language training in the less commonly taught languages. The Department's March 8, 2016 memo to FLAS Directors and Coordinators (attached) states that this practice is "inconsistent with the Title VI legislation, the FLAS program regulations, and the established guidance that your NRC/FLAS program officers have provided regarding graduate students and beginning level fellowships." The memo further states that the Department's Office of the General Counsel (OGC) maintains that the Sec. 602(b) FLAS statutory language warrants this new policy.

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We strongly disagree with OGC's interpretation of the Title VI statutory language and the Department's change of policy. We believe this policy conflicts with statutory intent and decades of long-standing precedent.

Title VI, Sec. 602(b) Statutory Language

In the last reauthorization, Congress modified Sec. 602(b) by reinstating the eligibility of undergraduates for FLAS fellowships conditionally, but did not enact amendments to change the eligibility of graduate FLAS fellowships. **Exhibit A** contains the current FLAS statutory language as modified by the HEOA of 2008 along with the House and Senate committee report language, and the comparable statutory language as of the prior reauthorization (1998).

Specifically, in the HEOA of 2008 Congress amended Sec. 602(b) to reinstate undergraduate student eligibility via two amendments: 1) The title of the subsection was changed to reflect "Fellowships," rather than only "Graduate Fellowships;" and 2) A phrase was added making undergraduates eligible with the condition that the undergraduate student is engaged in intermediate or advanced study of a less commonly taught language. The House bill restricted the undergraduate condition to overseas study, but the Senate bill applied the condition to both domestic and overseas study. The Senate language prevailed in conference.

The current Sec. 602(b)(1) GENERAL (or purpose) statement was carried over intact from previous law and states, "*The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing **advanced training** in any center or program approved by the Secretary.*" It is our understanding that OGC maintains the term "**advanced training**" in the purpose statement to mean advanced training in any subject area including language training. This interpretation appears to have led to the new policy prohibiting the use of graduate FLAS fellowships for beginning level language study of the LCTLs.

However, OGC's interpretation contradicts the long-standing precedent that has interpreted the phrase **advanced training** to mean students in advanced training in general, and not specifically to certain subjects. In fact, the term "**individuals undergoing advanced training**" comes from the original NDEA of 1958, Sec. 601(b). Over the decades it has been interpreted to mean a graduate level student, or an undergraduate student undergoing advanced training, as the current statute states, "*in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language.*" There were no amendments or committee report language in 2008 that modified the eligibility of graduate students, and by reinstating undergraduate fellowships conditionally, Congress did not intend modifications to graduate eligibility.

U.S. Department of Education Program Administration Manual

The Department's March 8 memo also mentions the FLAS program regulations and established Department guidance. **EXHIBIT B** contains excerpts from the FY 2006-2009 Program Administration Manual (PAM) just before the 2008 amendments, and the current PAM. It can be noted that the PAM for FLAS prior to the 2008 reauthorization did not prohibit graduate FLAS fellowships for academic year beginning language level study. The provision on summer FLAS fellowships was crystal clear about allowing language study at the beginning level. The FY 2006-2009 PAM had an intermediate or advanced foreign language requirement only for dissertation research *abroad*, but beginning level language study was acceptable if the equivalent instruction in the U.S. was not available.

In the comparable FY 2014-17 PAM, the FLAS eligibility statement taken from the Department's FLAS regulations specifies that undergraduate students must be enrolled in intermediate or advanced study of a less commonly taught language (as required by current statute), but there is no such statement for graduate students, for whom the eligibility requirements remain the same as in the past and focus on student involvement in pre-dissertation or dissertation level study. However, the current PAM later states that "Graduate students may also not receive fellowships for the beginning level of a language study." The new Department policy appears to contradict its own regulations based on the statute.

Implications of the Department's Policy Change

The change in Department of Education policy is counterproductive to the purpose of the law to strengthen the nation's capacity in foreign languages, and area or international studies. The Department is making a temporary exception for *"beginning level of a LCTL if a graduate student has achieved advanced proficiency in another language of the world area of specialization, and if learning a second language of that world area is required for the student's overall training and expertise."* However, this temporary "exception" does not reflect statutory intent. Graduate FLAS students should be eligible to take beginning, intermediate and advance courses in a LCTL that is needed for the student's overall training and expertise, including dissertation work, whether or not the student has studied a language before. Graduate students are highly motivated in this respect to achieve a working proficiency in the LCTL by the time they graduate. Moreover, as the Modern Language Association confirms, many graduate students did not have access to LCTL instruction at their undergraduate institutions, especially those least commonly taught. Many professional students applying for a FLAS never had the need to study a language at all. In both cases, graduate students must have access to support for beginning level LCTL studies relevant to their world area of study. FLAS fellowships provide incentives both to the students to study LCTLs, and to the institutions to offer the requisite courses that would not otherwise be offered due to low enrollments.

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Given the need for FLAS grantees to vet fellowships for the 2016-17 academic year now and 2017 summer institutes later in the year, we urge an immediate review and suspension of the Department's policy for 2016-2017 as stated in the March 8 letter to grantees. We also would be pleased to engage in dialogue with the Department on this issue.

Thank you for your consideration of our views.

Submitted by the following organizations:

African Studies Association
American Council of Learned Societies
American Historical Association
American Political Science Association
Association for Asian Studies
Association for International Business Education and Research
Association of International Education Administrators
Association for Slavic, East European, and Eurasian Studies
Consortium of Social Science Associations
Council of Directors of National Resource Centers
The Forum on Education Abroad
Middle East Studies Association
Modern Language Association
National Association of Independent Colleges and Universities
National Coalition for History
National Humanities Alliance

Cc: James Cole, Jr., General Counsel, U.S. Department of Education
Enc: March 8, 2016 U.S. Department of Education Memo to Project Directors and FLAS Coordinators on FLAS Fellowships for Beginning Level Language Training.

EXHIBIT A

Title VI, Sec 602(b) Statutory Language

The **current** FLAS statutory language (as of the HEOA of 2008) reads as follows:

“(b) FELLOWSHIPS FOR FOREIGN LANGUAGE AND AREA OR INTERNATIONAL STUDIES.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

(2) ELIGIBLE STUDENTS.—A student receiving a stipend described in paragraph (1) shall be engaged—

(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

(ii) in the case of a graduate student, in graduate study in connection with a program described in subparagraph (A), including—

- (I) predissertation level study;
- (II) preparation for dissertation research;
- (III) dissertation research abroad; or
- (IV) dissertation writing.”

The language in yellow highlight was added in the 2008 reauthorization to reinstate the eligibility of undergraduates for FLAS fellowships, with the distinction that eligible undergraduate students must be in the intermediate or advanced study of a less commonly taught language. No statutory language changes were made concerning graduate fellowships.

Furthermore, the House and Senate committee reports make no mention of intent to change FLAS graduate fellowships, but only to reinstate eligibility of undergraduate fellowships under certain conditions.

House Report 110-500 (p. 274) states: “*H.R. 4137 therefore reinstates the eligibility of Foreign Language and Area Studies fellowships for undergraduates to encourage a concentration on foreign language and area studies earlier in students’ postsecondary experiences.*” There is no mention of intent to change FLAS graduate fellowships.

Senate Report 110-231 (p. 39) states: “*The committee has restored eligibility of undergraduate students to receive Foreign Language and Areas Studies (FLAS)*

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fellowships. Permitting undergraduate students to receive these fellowships serves the national interest by supporting early language and world area study to help individuals achieve high levels of proficiency in the less commonly taught languages. The committee intends that undergraduate students be allowed to use FLAS fellowships in the United States and abroad for intermediate or advanced study of the less commonly taught languages and of foreign cultures. The committee recognizes that foreign immersion experiences are critical for achieving high levels of proficiency in the less commonly taught languages, which are important to the Nation's national security interests." Again, there is no mention of intent to change FLAS graduate fellowships.

Prior (1998) Statutory Language

By comparison, the eligibility provisions on FLAS graduate fellowships in the **prior statute** as of 1998 were carried over to the 2008 reauthorization, thus remaining the same in the current statute:

“(b) GRADUATE FELLOWSHIPS FOR FOREIGN LANGUAGE AND AREA OR INTERNATIONAL STUDIES-

“(1) IN GENERAL- The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

“(2) ELIGIBLE STUDENTS- Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program, including predissertation level studies, preparation for dissertation research, dissertation research abroad, and dissertation writing.”

EXHIBIT B

U.S. Department of Education Program Administration Guidance

It can be noted that in the last Department of Education Program Administration Manual for FLAS prior to the 2008 reauthorization, allowance was made for graduate FLAS fellowships at the beginning language level.

FY 2006-2009 Program Administration Manual, p. 32 states:

“ELIGIBILITY REQUIREMENTS FOR APPLICANTS: FLAS program regulations (34 Code of Federal Regulations (CFR) Part 657.3) specify that eligible applicants must be:

- (1) graduate students; and
- (2) US citizens, nationals, or permanent residents; and
- (3) accepted for enrollment or enrolled in a program that combines *modern* foreign language training with international or area studies or with the international aspects of professional or other fields of study.

Additionally, applicants should present plans for the fellowship award period that correspond to the eligible uses of FLAS fellowships.

“ELIGIBLE USES OF FLAS FELLOWSHIPS: There are two types of FLAS fellowships:

(1) Academic Year FLAS fellowships are awarded for a full academic year to students engaged in:

- (a) a formal overseas or domestic program of full-time language and area or international studies coursework; or
- (b) full-time dissertation research abroad – The use of the foreign language in the dissertation research must be extensive enough to be able to consider the language improvement facilitated by the research equal to the improvement that would be obtained from a full academic year’s worth of formal classroom instruction. Given that the legislative intent of the FLAS fellowship program is language acquisition and that IEPS has a separate dissertation fellowship [abroad—DDRA] program, use of the FLAS program for dissertation research [abroad] is not encouraged by IEPS.

(2) Summer FLAS fellowships support students enrolled in:

- (a) formal domestic programs of intensive language study at the beginning, intermediate or advanced level; or
- (b) formal overseas programs of intensive language study at the intermediate or advanced level; or
- (c) formal overseas programs of intensive study at the beginning level of languages for which appropriate equivalent instruction is not available in the United States.

For the purposes of this program, “intensive” summer language programs are those which offer a minimum of 120 contact hours of advanced-level language instruction and 140 contact hours of beginning- or intermediate-level instruction. In order to

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be considered intensive, summer language programs must last a minimum of 6 weeks; longer programs are preferable because they are more likely to provide the student with the equivalent of a full year of language study.

“REQUIREMENTS FOR USING FLAS AWARDS OVERSEAS: All fellowships to be used abroad must be approved in advance by the International Education and Graduate Program Service (IEPS) staff.

(1) Overseas study programs: Students wishing to use an academic year fellowship or summer FLAS fellowship for a formal overseas study program must be at the intermediate or advanced level of language proficiency, or at the beginning level if appropriate equivalent instruction is not available in the United States.

(2) Dissertation research: Only students who are at the advanced level of language proficiency can be approved to use a FLAS for dissertation research.”

The above provisions have an intermediate or advanced foreign language requirement only for formal overseas study, but beginning level is acceptable if the equivalent instruction is not available in the U.S. The language on summer domestic FLAS fellowships is crystal clear about allowing language study at the beginning level.

The FY 2014-2017 Program Administration Manual, p. 33, states:

“Student Eligibility

According to the FLAS regulations (§657.3), a student is eligible to receive a fellowship if the student –

“(a) Is a citizen or national of the United States or is a permanent resident of the United States;

“(b) Is accepted for enrollment or is enrolled in an institution receiving an allocation of fellowships and in a program that combines modern foreign language training with—

(i) Area or international studies; or

(ii) Research and training in the international aspects of professional and other fields of study;

“(c) Shows potential for high academic achievement based on such indices as grade point average, class ranking, or similar measures that the institution may determine;

“(d) Is enrolled in a program of modern foreign language training for a language for which the institution has developed or is developing performance-based instruction;

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“(e) In case of an undergraduate student, is in the intermediate or advanced study of a less commonly taught language; or

“(f) In the case of a graduate student, is engaged in—
(i) Predissertation level study;
(ii) Preparation for dissertation research;
(iii) Dissertation research abroad; or
(iv) Dissertation writing at the home institution”

The FY 2014-17 FLAS eligibility statement specifies that undergraduate students must be enrolled in intermediate or advanced study of a less commonly taught language (as required the statute), but there is no such statement for graduate students, for whom the eligibility requirements remain as in the past and focus on student involvement in pre-dissertation or dissertation level study.

However, later on p. 37 of the FY 2014-2017 PAM, the Department states the following:

“Proficiency Level Requirements

“Fellowships may not be awarded for the study of the first 12 semester hours or the equivalent (i.e., the beginning level) of a commonly taught language (Spanish, French, and German).

“HEA section 602(b)(1)(B)(i) is unequivocal that undergraduate students must be in the intermediate or advanced study of a less commonly taught language to receive a fellowship.

“Graduate students may also not receive fellowships for the beginning level of a language study. See section 602(b)(1)(B)(ii) (U.S. Department of Education, Office of the General Counsel). An exception might be made for the beginning level of a less commonly taught language if a graduate student has achieved advanced proficiency in another language of the world area of specialization, and if learning a second language of that world area is required for the student’s overall training and expertise.”

This PAM section correctly cites the limitation on undergraduate fellowship study. However, the reference to graduate fellowships in yellow highlight should be Sec. 602(b)(2)(B)(ii)—as no Sec. 602(b)(1)(B)(ii) exists—referring to pre-dissertation level study and dissertation research, and containing no reference to prohibiting graduate fellowships for the beginning level of LCTL language study.