

DSS ADMINISTRATIVE LETTER NO. FSCWS 05-05

TO: County Directors of Social Services

**SUBJECT: NEW FEDERAL INTERPRETATION EFFECTING
POLICY ON
EDUCATION TRAINING VOUCHERS**

DATE: May 16, 2005

EFFECTIVE DATE: Immediate

ATTENTION: County Directors

Children's Services Supervisors

County LINKS Coordinators

County Fiscal Directors

Administration on Children, Youth and Families, the federal agency that determines usage of Chafee (LINKS and ETV) funds has recently issued a question and answer document regarding several issues that will impact North Carolina practice. In an effort to ensure federal compliance, we are providing the full Q & A document regarding these issues. These changes are effective immediately. Questions to these and other policies regarding Foster Care and Adoption practices are found at the following website:

<http://cb1.acf.dhhs.gov/programs/cb/cwpm/index.jsp>

This letter includes all the new ETV policy interpretations, including those that differ with current North Carolina practice, along with the changes in North Carolina policy that are effective immediately.

3.5 Independent Living, Educational and Training Vouchers

Question: If a youth ages out of foster care in one State and then changes his or her State of residency, which State is responsible for providing a youth with an educational and training voucher?

Answer: For a youth in foster care, the State with placement and care responsibility is responsible for providing a voucher to an eligible youth. The State in which a former foster youth resides is responsible for providing such an eligible youth with a voucher. This provision, however, does not apply to a former foster care youth who already is receiving a voucher and moves to another State for the sole purpose of

attending an institution of higher education. In that instance, we expect that the youth's original State of residence will continue to provide a voucher to the youth for as long as the youth remains eligible for the program.

No change for North Carolina policy. If a minor is still in custody of another state, the sending state is responsible for providing Education Training Vouchers. North Carolina takes responsibility for providing vouchers to our youth who go to other states under Interstate Compact, as well as those who attend school in other states. If a young adult from another state ages out in North Carolina or is adopted from foster care in North Carolina after age 16 and then wants to go on to college, we consider them North Carolina residents who qualify for all LINKS services and benefits, including ETV.

Question: Is the amount of a youth's educational and training voucher exempt from Federal taxes?

Answer: Nothing in section 477 of the Social Security Act exempts Chafee Educational and Training Vouchers or scholarships financed with general Chafee funds from Federal taxes. Under certain conditions, however, scholarships may be tax exempt. Since the Administration for Children and Families cannot provide authoritative advice on Federal taxes, the State and/or student should contact the Internal Revenue Service directly for more information.

There is nothing in North Carolina ETV policy about this issue. Students who receive ETV assistance should contact the Internal Revenue Service.

Question: Since one of the purposes of the Chafee Independent Living program is to provide educational services to former foster care recipients between the ages of 18 and 21 (section 477(a)(5)), can general Chafee funds be used to supplement the \$5,000 per-year ceiling for a youth in the Chafee Educational and Training Voucher (ETV) program?

Answer: No. Appropriations law precludes the use of general Chafee funds to supplement the \$5,000 per-year ceiling. When an agency has a specific appropriation for a particular item (such as ETVs), and also has a general appropriation broad enough to cover the same item (such as general Chafee funds), only the more specific appropriation may be used. Therefore, expenditures for the ETV program must be made for the specific purposes set forth in the law and limited to expenses associated with institutions of higher education. General Chafee funds may not be used for voucher expenses associated with institutions of higher education, but may be used for other non-higher education-based learning activities (such as General Equivalency Degree programs, mentoring programs and other supportive services for eligible youth). General Chafee funds may also be used for activities that are outside the scope of an institution's definition of "cost of attendance," and are not covered by the ETV program.

This represents a significant change in North Carolina policy, as we had been using LINKS Scholarship Funds to help ETV students out with eligible expenses once their ETV was exhausted. We can no longer do this. Counties should not submit requests for expenses that would have been covered under ETV (Tuition, books, fees, etc.) and should inform all ETV students that additional LINKS funds will not be available for this type of expenditure should they run out of ETV funds. The student should be informed of this policy so that they can budget as necessary, take out additional student loans, work, or seek additional scholarship assistance.

Counties may opt to use county funds to supplement a youth's grant, but may not use their LINKS allocation (which also consists of Chafee funds) nor any other federal funding source. While this interpretation has the potential of having a major impact on an individual student's educational plans, the requests for LINKS Special Funds to supplement ETV has been minimal.

The change is reflected in proposed policy.

3.5A Independent Living, Educational and Training Vouchers, Youth Eligibility

Question: Must a youth be 18 years of age to receive a Chafee Educational and Training Voucher?

Answer: No. The statute does not place any minimum age restrictions for the Chafee Educational and Training Voucher program.

This is also being reflected in proposed policy. A student must be accepted into a qualifying post-secondary school, which usually means that they have their diploma or GED. However, if the student has been accepted and the school qualifies, we can use the ETV funds.

Question: If a State amends its title IV-E State plan to define youth at age 14 as eligible for Chafee services, can the State also make foster care youth who are adopted at age 14 eligible for Educational and Training Vouchers (ETV) under the "youth otherwise eligible" criteria in section 477(l)(1) of the Social Security Act (the Act)?

Response: No. For purposes of the ETV program, section 477(l) (2) of the Act permits former foster youth who have been adopted from foster care to be considered as "youth otherwise eligible" for services. However, it restricts eligibility to youth who are adopted on or after the youth's 16th birthday.

No change in North Carolina policy.

Question: Must students attend school full-time to receive a Chafee Educational and Training Voucher?

Answer: No. Federal law does not require that students attend school on a full-time basis to receive a voucher.

No change in North Carolina policy. The maximum ETV grant for a part-time student is reduced to \$2500 per year.

Question: If a youth has been receiving a Chafee voucher to attend college, but is not taking classes during the semester the youth turns age 21, will the youth continue to be eligible for a voucher through age 23?

Answer: If the State determines that the youth is still enrolled, based on the academic institution's definition of "enrollment," in a postsecondary education or training program and has been making satisfactory progress toward completing the program, despite not actually taking classes at the time the youth turns 21, the State may continue the youth's eligibility for a voucher until age 23 (section 477(l) (3) of the Social Security Act). The State should consult the individual institution's policy on enrollment and standards for satisfactory academic progress to make this determination.

No change in North Carolina policy. North Carolina considers the student enrolled if he/she is making satisfactory progress toward completion of the program and has been accepted for enrollment for the next term.

Question: Would a voucher be available for a youth to get an adult high school certificate or General Equivalency Degree (GED) at a community college?

Answer: Typically, no, because Chafee requires that a youth attend an institution of higher education, as defined in section 102 of the Higher Education Act (HEA) of 1965, as amended. Among other things, HEA defines what constitutes an "institution of higher learning" based on certain criteria. We encourage the State to consult the specific community college or institution of higher education about whether such a youth is considered a student for whom the institution can calculate the cost of attendance and whether the college or institution of higher education meets the criteria in sections 101 and 102 of HEA.

No change in North Carolina policy. However if the qualifying postsecondary school admits a student who is taking both secondary and postsecondary training as a regular student, the student can get an ETV. A very few North Carolina students are enrolled in postsecondary training while finishing their GED/AHD/diploma and are getting ETV for the expenses for the postsecondary costs.

3.5B Independent Living, Educational and Training Vouchers, Coordination and Duplication

Question: The Chafee voucher program requires States to describe how they will avoid duplication of benefits under this and any other Federal assistance program. Does this

mean that an award of an educational and training voucher precludes a youth from also receiving a Pell grant award?

Answer: No. A youth may receive both a Pell grant and a voucher. "Avoiding duplicated benefits" means that the youth cannot receive a combination of Federal educational assistance and vouchers that totals more than the actual cost of attendance, or otherwise claim for the same expense under multiple Federal programs.

No change in North Carolina policy.

3.5C Independent Living, Educational and Training Vouchers, Eligible Expenses and Institutions

Question: What type of institutions fall within the definition of "institution of higher education" for the purposes of the educational and training voucher program under section 477 of the Social Security Act?

Answer: The term "institution of higher education" is defined in Sections 101 and 102 of the Higher Education Act (HEA) of 1965, as amended. The U.S. Department of Education, Office of Postsecondary Education, can help States determine which institutions meet the law's criteria. In general, the term includes three different types of institutions: public and nonprofit institutions of higher education; proprietary institutions of higher education; and postsecondary vocational institutions.

A public or nonprofit institution of higher education must meet the following criteria (section 101(a) and (b) of HEA):

- (1) admits as regular students only persons with a high school diploma or General Equivalency Degree (GED), OR students above the age of compulsory school attendance in the State where the institution is located;
- (2) is authorized by the State to provide postsecondary education;
- (3) provides an educational program for which the institution awards a bachelor's degree or at least a two-year program (e.g., an associate degree) that is acceptable for full credit toward such a degree OR provides at least a one-year training program to prepare students for gainful employment in a recognized occupation; and
- (4) is accredited by a nationally recognized accrediting agency or association, recognized by the Department of Education, or has been granted pre-accreditation status by the agency or association, and the Secretary has determined that there is a satisfactory assurance that the institution will meet the accreditation standards of the agency or association within a reasonable time.

A proprietary (for-profit) institution of higher education must provide a training program to prepare students for gainful employment in a recognized occupation and meet the same criteria as described in (1) and (2) above for public or nonprofit schools. In addition, the institution must: be accredited by an agency or association recognized by the Department of Education; be in existence for at least two years; and, have at least 10 percent of its funding come from sources other than title IV of HEA (section 102(a)(1)(A) and 102(b) of HEA).

A postsecondary vocational institution must be a public or nonprofit school in existence for at least two years, which provides a training program to prepare students for gainful employment in a recognized occupation. The school must also meet the criteria described in (1), (2) and (4) above (section 102(a) (1) (B)) and 102(c) of HEA). Certain institutions may not be considered an "institution of higher education" without obtaining special Secretarial approval if they have a high percentage of distance learning classes or students, incarcerated students and students without a high school degree, or have previously filed for bankruptcy or have been convicted of fraud using HEA funds (section 102(a) (3) and (a) (4) of HEA). Schools outside of the United States cannot be considered institutions of higher education for the purposes of the Educational and Training Voucher program (section 102(a)(1)(C) of HEA).

No change in North Carolina policy

Question: Section 477(l)(4) of the Social Security Act allows States to use educational and training vouchers to pay for the "cost of attendance" up to \$5,000 per year. What is included in the definition of "cost of attendance?"

Answer: The definition of "cost of attendance" is in section 472 of the Higher Education Act of 1965, as amended. The cost of attendance is calculated by the institution of higher education in establishing a youth's financial need and can vary depending on the student's full-time or part-time status and where the student is receiving instruction (i.e., in jail, study-abroad or distance learning).

In general, the definition includes:

- Tuition, fees and other equipment or materials required of all students in the same course of study;
- Books, supplies and an allowance for transportation costs and miscellaneous personal expenses, including computers;
- Room and board (which may vary depending on whether the student lives at home, in student-housing or an apartment);
- Child care expenses for a student who is a parent;

- Accommodations related to the student's disability, such as a personal assistant or specialized equipment that is not paid for by another source; -
- Expenses related to the youth's work experience in a cooperative education program;
- Student loan fees or insurance premiums on the student loan;

This will require North Carolina policy clarification with the contractor. We are proposing that each school define what is covered by “cost of attendance,” since the costs are variable based on institution and program of study. A checklist will be devised for each school’s use in citing cost of attendance for a particular student.

Question: What child care expenses are included in the definition of "cost of attendance" for the voucher program?

Answer: According to the Higher Education Act of 1965, as amended, if the youth has at least one child, the cost of attendance includes an allowance for child care expenses. The institution must determine the actual allowance, if any, for child care expenses. The institution's determination must be based on the number and age of the youth's child(ren) and may not exceed the reasonable cost for child care in the community where the youth lives. The expenses may cover, but are not limited to, child care necessary for class attendance, periods of study, field-work, internships, and commuting time.

No change in North Carolina policy.

Question: If the State is paying for the "cost of attendance" for a student under the Educational and Training Voucher program, what are allowable transportation expenses under the definition of "cost of attendance?" May the State use funds from the voucher program to pay for expenses related to a student's personal vehicle?

Answer: There is no statutory definition of allowable transportation expenses. The institution may determine the amount of transportation expenses, if any, to allow in determining the cost of attendance. The State should consult with the institution to determine which expenses are allowable and appropriate. If expenses related to the student's personal vehicle are not a part of the cost of attendance, they are not an allowable expense under the voucher program. The State may pay for costs, such as a youth's car insurance or car repairs, that are reasonable and necessary for the youth to become independent or attend classes out of regular Chafee program funds.

This will require policy clarification with the contractor and participating educational institutions to assure that the educational institution defines whether or not vehicles are included in the cost of attendance.

Question: Can the State use funds awarded in the current fiscal year for the Educational and Training Voucher (ETV) program to pay all or a portion of a youth's educational or vocational student loans from previous years?

Answer: No. Fundamental principles of both appropriations law and grants management policy dictate that funds are not available for expenditure or obligation by the grantee (in this case, the State) until they are awarded to the grantee. Accordingly, funds cannot be expended by a grantee for costs incurred *prior to* the effective date of the grant award. The use of a current fiscal year's ETV funds to finance a youth's educational or vocational loans that were incurred prior to the awarding of grant funds is prohibited.

No change in North Carolina policy. We do use ETV funds to pay student loans for the *current* school year.

Question: There is a \$5,000 per year maximum per youth for the Educational and Training Voucher fund. Does this maximum apply only to Federal funds? If so, can the State spend additional dollars from all-State funds or other sources for this purpose?

Answer: Yes to both questions. Consistent with section 474(a)(4) of the Social Security Act, a State will be reimbursed for 80 percent of the amount of a youth's voucher, up to the \$5,000 per year/per youth maximum. The State is responsible for a 20 percent match up to that limit. The State is free to use additional State or other funds for this purpose.

Not applicable for North Carolina. North Carolina uses an in-kind match to draw the Federal dollars. There are no state dollars in the ETV fund.

Question: Section 477(i)(4)(B) of the Social Security Act states that a voucher or vouchers provided for an individual "shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in the Act." Does the \$5,000 ceiling apply to an academic year, a Federal or State fiscal year, a calendar year or any 12-month period?

Answer: Since the law does not define the term "year" as applied to the \$5,000 ceiling, the State has the discretion to decide the 12-month period to which to apply the ceiling. Accordingly, the voucher amount of up to \$5,000 per year/per youth may be for any 12-month period of the State's choosing. It should be noted, however, that the funds must be spent within the two-year expenditure period that is based on the Federal fiscal year.

North Carolina bases the cap on the federal fiscal year, October 1 to September 30.

Question: Would a voucher be available for a youth to get an adult high school certificate or General Equivalency Degree (GED) at a community college?

Answer: Typically, no, because Chafee requires that a youth attend an institution of higher education, as defined in section 102 of the Higher Education Act (HEA) of 1965, as amended. Among other things, HEA defines what constitutes an "institution of higher learning" based on certain criteria. We encourage the State to consult the specific community college or institution of higher education about whether such a youth is considered a student for whom the institution can calculate the cost of attendance and whether the college or institution of higher education meets the criteria in sections 101 and 102 of HEA.

No change in North Carolina policy.

3.5D Independent Living, Educational and Training Vouchers, Administrative Costs

Question: Can a State claim the administrative costs under the title IV-E Foster Care program (section 474(a)(3) of the Social Security Act (the Act)) for implementing the Educational and Training Voucher program?

Answer: No. Only costs that are closely related to the administration of the title IV-E foster care maintenance payments or adoption assistance programs may be claimed under section 474(a)(3) of the Act.

North Carolina uses a portion of the ETV grant to pay for administration of the grant (10%).

Question: Can Chafee voucher program funds be used to pay for staffing?

Answer: Yes. States may use funds from the voucher program to pay for the salaries, expenses and training of staff who administer the State's voucher program. States must properly allocate costs to all benefiting programs, and the allocation of such costs must be included in the State's approved cost allocation plan.

North Carolina contracts for administration of the ETV. No change in North Carolina policy.

3.5E Independent Living, Educational and Training Vouchers, Match

Question: Can non-State funds (e.g., private dollars, in-kind) be used to match the voucher funds?

Answer: Yes. States may use third-party, in-kind sources to match Chafee funds consistent with 45 CFR Part 92.24.

No change in North Carolina policy. North Carolina uses allowable in-kind match for Chafee ETV funds.

Question: Must State or in-kind funds used to match the voucher program follow the same program rules as the Federal dollars?

Answer: Yes. States may not use matching funds for unallowable costs of the voucher program or to otherwise serve youth who are ineligible for the vouchers in accordance with 45 CFR 92.24.

No change in North Carolina policy

3.5F Independent Living, Educational and Training Vouchers, Use of Funds

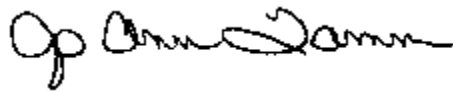
Question: Can funds for the voucher program be used for non-voucher related expenses, i.e., mentoring programs or other supportive activities for eligible youth?

Answer: No. Section 477(h)(2) of the Social Security Act (the Act) restricts funds under the voucher program to "education and training vouchers for youths who age out of foster care." Therefore, States may use voucher funds only to provide the vouchers and conduct administrative activities necessary to provide the vouchers. States may, however, use the regular Chafee program funds authorized under section 477(h)(1) of the Act to support these and other activities not allowable under the Educational and Training Voucher program.

No change in North Carolina Policy.

Please distribute copies of this Administrative Letter to Foster Care and Adoption supervisors, your LINKS liaison, and program managers. Any questions regarding this letter should be addressed to Joan McAllister, State Coordinator for the NC LINKS program at Joan.McAllister@ncmail.net.

Sincerely,



Jo Ann Lamm, Section Chief

Family Support and Child Welfare Services Section

JAL/jm

cc: Pheon Beal

Sherry Bradsher

Childrens' Programs Representatives

Local Business Liaisons

Team Leaders, Family Support and Child Welfare