

RCW 72.09.460 Incarcerated individual participation in education and work programs—Postsecondary degree education opportunities—Legislative intent—Priorities—Rules—Payment of costs. (1)

Recognizing that there is a positive correlation between education opportunities and reduced recidivism, it is the intent of the legislature to offer appropriate postsecondary degree or certificate opportunities to incarcerated individuals.

(2) The legislature intends that all incarcerated individuals be required to participate in department-approved education programs, work programs, or both, unless exempted as specifically provided in this section. Eligible incarcerated individuals who refuse to participate in available education or work programs available at no charge to the incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130. Eligible incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(3) The legislature recognizes more incarcerated individuals may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing incarcerated individuals in available and appropriate education and work programs.

(4) (a) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for incarcerated individuals in the order listed:

(i) Achievement of basic academic skills through obtaining a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536, including achievement by those incarcerated individuals eligible for special education services pursuant to state or federal law;

(ii) Achievement of vocational skills necessary for purposes of work programs and for an incarcerated individual to qualify for work upon release;

(iii) Additional work and education programs necessary for compliance with an incarcerated individual's individual reentry plan under RCW 72.09.270, including special education services and postsecondary degree or certificate education programs; and

(iv) Other appropriate vocational, work, or education programs that are not necessary for compliance with an incarcerated individual's individual reentry plan under RCW 72.09.270 including postsecondary degree or certificate education programs.

(b) (i) If programming is provided pursuant to (a) (i) through (iii) of this subsection, the department shall pay the cost of such programming, including but not limited to books, materials, and supplies for adult basic education programs and any postsecondary education program that is not financial aid eligible at the time the individual is enrolled or paid for by the department or third party.

(ii) For financial aid eligible postsecondary programming provided pursuant to (a) (i) through (iii) of this subsection, the department may require the individual to apply for any federal and state financial aid grants available to the individual as a condition of participation in such programming. The individual may elect to use available financial aid grants, self-pay, or any other available third-party funding, or use a combination of these methods to cover the cost of attendance for financial aid eligible postsecondary

programming provided under this subsection (4)(b)(ii). If an individual elects to self-pay or utilize third-party funding, the individual is not subject to the postaward formula described in (c) of this subsection. If the cost of attendance exceeds any financial grant awards that may be available to the individual, or the person is not eligible for federal or state financial aid grants, the department shall pay the cost of attendance not otherwise covered by third-party funding. All regulations and requirements set forth by the United States department of education for federal pell grants for prison education programs apply to financial aid eligible postsecondary programming.

(c) If programming is provided pursuant to (a)(iv) of this subsection, incarcerated individuals shall be required to pay all or a portion of the costs, including books, fees, and tuition, for participation in any vocational, work, or education program as provided in department policies. The individual may apply for and utilize federal and state financial aid grants available to the individual. If the individual is not eligible for federal financial aid grants, the individual may apply for and utilize state financial aid grants available to the individual. Department policies shall include a postaward formula for determining how much an incarcerated individual shall be required to pay after deducting any amount from available financial aid or other available sources. The postaward formula shall include steps which correlate to an incarcerated individual's average monthly income or average available balance in a personal savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary educational costs. Any postaward formula offsets and funds paid for by the department for educational programming shall not result in the reduction of any gift aid. The postaward formula shall be reviewed every two years. A third party, including but not limited to nonprofit entities or community-based postsecondary education programs, may pay directly to the department all or a portion of costs and tuition for any programming provided pursuant to (a)(iv) of this subsection on behalf of an incarcerated individual. Such payments shall not be subject to any of the deductions as provided in this chapter.

(d) All incarcerated individuals shall receive financial aid and academic advising from an accredited institution of higher education prior to enrollment in a financial aid eligible postsecondary education program. Eligible individuals who choose not to participate or choose to cease participation in a financial aid eligible postsecondary education program shall not result in a loss of privileges.

(e) Correspondence courses are ineligible for state and federal financial aid funding.

(f) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities and community-based postsecondary education programs, and may receive, utilize, and dispose of same to complete the purposes of this section.

(g) Any funds collected by the department under (c) and (h) [(f)] of this subsection and subsections (11) and (12) of this section shall be used solely for the creation, maintenance, or expansion of incarcerated individual educational and vocational programs.

(5) The department shall provide access to a program of education to all incarcerated individuals who are under the age of eighteen and

who have not met high school graduation requirements or requirements to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for incarcerated individuals under the age of eighteen must provide each incarcerated individual a choice of curriculum that will assist the incarcerated individual in achieving a high school diploma or high school equivalency certificate. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(6) (a) In addition to the policies set forth in this section, the department shall consider the following factors in establishing criteria for assessing the inclusion of education and work programs in an incarcerated individual's individual reentry plan and in placing incarcerated individuals in education and work programs:

(i) An incarcerated individual's release date and custody level. An incarcerated individual shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that incarcerated individuals with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of incarcerated individuals participating in a new class I correctional industry not in existence on June 10, 2004;

(ii) An incarcerated individual's education history and basic academic skills;

(iii) An incarcerated individual's work history and vocational or work skills;

(iv) An incarcerated individual's economic circumstances, including but not limited to an incarcerated individual's family support obligations; and

(v) Where applicable, an incarcerated individual's prior performance in department-approved education or work programs;

(b) The department shall establish, and periodically review, incarcerated individual behavior standards and program outcomes for all education and work programs. Incarcerated individuals shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or outcomes.

(7) Eligible incarcerated individuals who refuse to participate in available education or work programs available at no charge to the incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130. Eligible incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(8) The department shall establish, by rule, a process for identifying and assessing incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether the person requires accommodations in order to effectively participate in educational programming, including general educational development tests and postsecondary education. The department shall establish a process to provide such accommodations to eligible incarcerated individuals.

(9) The department shall establish, and periodically review, goals for expanding access to postsecondary degree and certificate education programs and program completion for all incarcerated individuals, including persons of color. The department may contract and partner with any accredited educational program sponsored by a nonprofit entity, community-based postsecondary education program, or institution with historical evidence of providing education programs to people of color.

(10) The department shall establish, by rule, objective medical standards to determine when an incarcerated individual is physically or mentally unable to participate in available education or work programs. When the department determines an incarcerated individual is permanently unable to participate in any available education or work program due to a health condition, the incarcerated individual is exempt from the requirement under subsection (2) of this section. When the department determines an incarcerated individual is temporarily unable to participate in an education or work program due to a medical condition, the incarcerated individual is exempt from the requirement of subsection (2) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all incarcerated individuals with temporary disabilities to ensure the earliest possible entry or reentry by incarcerated individuals into available programming.

(11) The department shall establish policies requiring an incarcerated individual to pay all or a portion of the costs and tuition for any vocational training or postsecondary education program if the incarcerated individual previously abandoned coursework related to postsecondary degree or certificate education or vocational training without excuse as defined in rule by the department. Department policies shall include a formula for determining how much an incarcerated individual shall be required to pay. The formula shall include steps which correlate to an incarcerated individual's average monthly income or average available balance in a personal savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any program on behalf of an incarcerated individual under this subsection. Such payments shall not be subject to any of the deductions as provided in this chapter.

(12) Notwithstanding any other provision in this section, an incarcerated individual subject to the provisions of 8 U.S.C. Sec. 1227:

(a) Shall not be required to participate in education programming except as may be necessary for the maintenance of discipline and security;

(b) May not participate in a postsecondary degree education program offered by the department or its contracted providers, unless the incarcerated individual's participation in the program is paid for by a third party or by the individual;

(c) May participate in prevocational or vocational training that may be necessary to participate in a work program;

(d) Shall be subject to the requirements relating to incarcerated individual financial responsibility for programming under subsection (4) of this section.

(13) If an incarcerated individual has participated in postsecondary education programs, the department shall provide the

incarcerated individual with a copy of the incarcerated individual's unofficial transcripts, at no cost to the individual, upon the incarcerated individual's release or transfer to a different facility. Upon the incarcerated individual's completion of a postsecondary education program, the department shall provide to the incarcerated individual, at no cost to the individual, a copy of the incarcerated individual's unofficial transcripts. This requirement applies regardless of whether the incarcerated individual became ineligible to participate in or abandoned a postsecondary education program.

(14) For the purposes of this section:

(a) "Third party" includes a nonprofit entity or community-based postsecondary education program that partners with the department to provide accredited postsecondary education degree and certificate programs at state correctional facilities.

(b) "Gift aid" has the meaning provided in RCW 28B.145.010.

[2024 c 272 s 1; 2021 c 200 s 4; 2017 c 120 s 3; 2013 c 39 s 24; 2007 c 483 s 402; 2004 c 167 s 5; 1998 c 244 s 10; 1997 c 338 s 43; 1995 1st sp.s. c 19 s 5.]

Findings—Intent—2021 c 200; 2019 c 397; 2017 c 120: See note following RCW 28B.50.815.

Findings—Intent—2007 c 483: "Research and practice show that long-term success in helping offenders prepare for economic self-sufficiency requires strategies that address their education and employment needs. Recent research suggests that a solid academic foundation and employment- and career-focused programs can be cost-effective in reducing the likelihood of reoffense. To this end, the legislature intends that the state strive to provide every inmate with basic academic skills as well as educational and vocational training designed to meet the assessed needs of the offender.

Nonetheless, it is vital that offenders engaged in educational or vocational training contribute to their own success. An offender should financially contribute to his or her education, particularly postsecondary educational pursuits. The legislature intends to provide more flexibility for offenders in obtaining postsecondary education by allowing third parties to make contributions to the offender's education without mandatory deductions. In developing the loan program, the department is encouraged to adopt rules and standards similar to those that apply to students in noninstitutional settings for issues such as applying for a loan, maintaining accountability, and accruing interest on the loan obligation." [2007 c 483 s 401.]

Findings—2007 c 483: See RCW 72.78.005.

Effective date—1998 c 244 s 10: "Section 10 of this act takes effect September 1, 1998." [1998 c 244 s 18.]

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Severability—Effective dates—1997 c 338: See notes following RCW 5.60.060.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.