



# Ability to Benefit

## *Developing a State-defined Process*

October 2018 | Lauren Walizer

# CLASP

Policy solutions that work for low-income people

### *Maximizing the Power of Career Pathways*

## The Convening

In July 2018, the Center for Law and Social Policy (CLASP) and Workforce Collaborative of the Greater Washington Community Foundation hosted a convening titled “Maximizing the Power of Pathways: Vital Career Pathway Conversations.” It brought together education and workforce development leaders from states, national organizations, advocates, funders, and federal agency staff to share perspectives on four career pathway issues:

- Guided pathways alignment;
- Increasing the use of Ability to Benefit;
- Leveraging career pathways to advance racial equity; and
- Measuring success through career pathway research.

This brief is part of a series highlighting lessons from our convening as well as new research. You’ll learn what’s working, what isn’t, and collaboration opportunities for states to provide better career pathways.

## The Issue

Ability to Benefit (ATB) is a provision of the federal Higher Education Act. It allows postsecondary students who lack a high school diploma or its equivalent (HSD/E) to receive federal financial aid like Pell grants. Financial aid opens college and career opportunities to these students, who typically have less developed skills and low incomes and are disproportionately people of color.

*“We know we need adults without a high school diploma to meet our completion goal. ATB is an opportunity to build stronger relationships with adult education.”*  
**Robin McGill, RI Office of the Postsecondary Commissioner**

Students are eligible for ATB after completing six credits or its equivalent, a U.S. Department of Education (ED)-approved exam, or a state process. However, each of these options presents challenges:

- **Six Credits:** A majority of potential ATB students are low income, so they can't pay out of pocket for six credits. Consequently, they have to find private, institutional, or other resources to pay for this coursework.
- **Exam:** Oftentimes, potential ATB students have been away from school for many years. They may have little or no opportunity to study, reducing their likelihood of passing the exam.
- **State Process:** No states have submitted state processes for the U.S. secretary of education's consideration and approval.

Some states have developed strategies to overcome challenges with the six-credit requirement. For instance, Washington provides state aid to low-income students through its Opportunity Grant program, which pays for tuition and fees for up to 45 credits. Students are not required to have a HSD/E. Mississippi has received foundation support to finance the first six credits. That's eliminated many students' initial financial barrier. However, both programs are resource-limited, meaning they can't fund all institutions or all students interested in participating.

State-defined processes hold the most potential for state-level impact. But so far, none have been developed. Creating a state process could provide an additional workforce training funding stream for students and states to leverage. It could also provide states an opportunity to align student and

*“To support enrolment in ATB, it is necessary to find a champion in each college who can then bring financial aid, the registrar, admissions, and the bursar together to come up with a process that can then be marketed.”*

**Anson Green, TX Workforce Commission**

institutional requirements with other WIOA activities, workforce needs, and/or state initiatives.

Many states may not realize they can create their own plans, given that none have submitted one for the secretary's consideration. With education and training crucial to success in today's economy, this is the time for states to consider a state process.

## Background

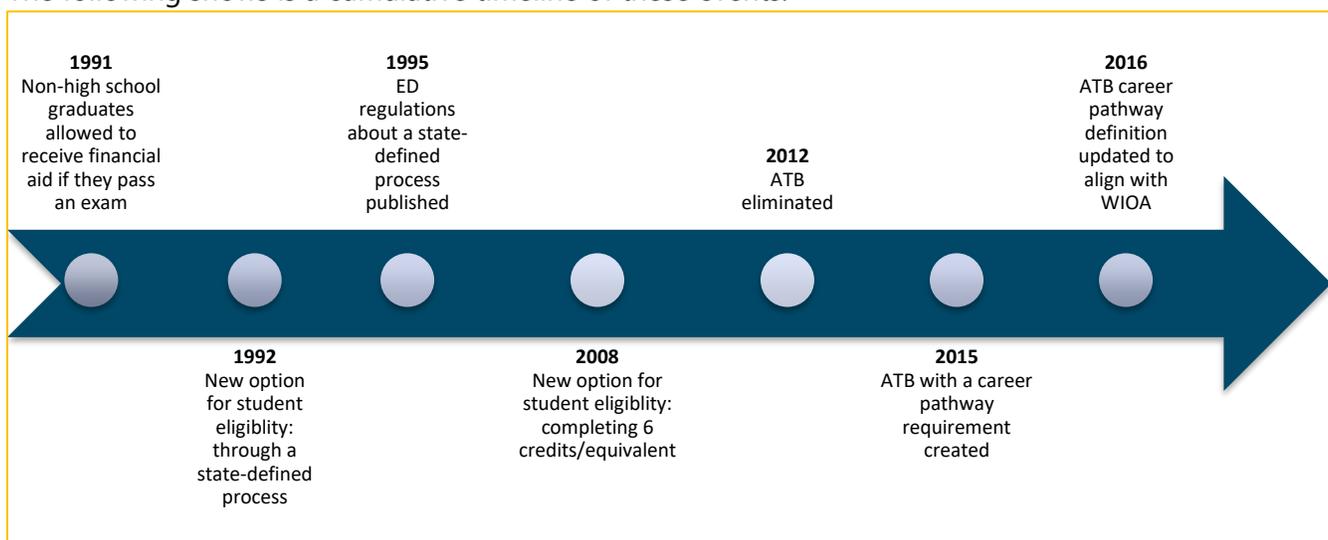
In 1991, Congress passed legislation allowing students without a HSD/E to be eligible for federal student aid. Students were required to demonstrate their “ability to benefit” from student aid by passing an “independently administered examination” approved by ED.<sup>1</sup> Initially, this was students’ only option to gain eligibility. However, the following year, Congress approved legislation allowing students to become eligible through a state-defined process, which was described as:

*Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.*

During the Great Recession, people who couldn’t find work returned to college for training or retraining. Many were people with low incomes. With a spike in college enrollment, the number of Pell grants increased. In 2012, Congress eliminated the ATB in an effort to reduce program costs.<sup>2</sup>

In 2014, Congress restored ATB with slightly different rules. The student eligibility rules largely remained the same. However, the 2014 version required ATB students to be enrolled in a career pathway program.<sup>3</sup> Initially, the law’s definition of “career pathway” didn’t sync with the definition in the Workforce Innovation and Opportunity Act (WIOA). Congress fixed that the following year, revising the Higher Education Act to match WIOA’s language.<sup>4</sup>

The following shows is a cumulative timeline of these events:



## What We Learned

ATB is implemented at the institution level. However, as states advance their thinking about career pathways, they can expand and systematize elements of ATB.

States are increasingly considering how ATB can support the state's completion goals and fits within the career pathways established at their colleges. They can promote ATB with their institutions by issuing general guidance on the implementation process. This will build awareness and uptake.

A few states already have buy-in from institutions and state systems. They may be ready to build and scale their work by drafting a state process. States that don't have that buy-in should consider the steps needed to get all actors on the same page. They should also understand the current limitations and possibilities that state institutions foresee with scaling ATB. When developing a state process, states should consider the input of stakeholders currently engaged in ATB activities, as well as ED, which is available to provide guidance.

It's important to note those states are outliers. Most states are focusing their attention on finding financial resources to finance ATB students' first six credits. This may be preferable for states that aren't ready to move forward with a state process. However, it's crucial these resources are equitably distributed across state institutions. A state process, which could leverage available state resources and build on state strengths, is the best option to support that long term.

*“Washington has created a website and testimonial video dedicated to supporting ATB.”*  
*William Durden, SBCTC*

## Appendix A – ED Guidance on the State Process

§668.156 Approved State process.

### (a) Summary:

States must apply to the Secretary for approval. The application must indicate which institutions are included.

**(a)**(1) A State that wishes the Secretary to consider its State process as an alternative to achieving a passing score on an approved, independently administered test for the purpose of determining a student's eligibility for title IV, HEA program funds must apply to the Secretary for approval of that process.

(2) To be an approved State process, the State process does not have to include all the institutions located in that State but must indicate which institutions are included.

**(b)** The Secretary approves a State's process if –

(1) The State administering the process can demonstrate that the students it admits under that process without a high school diploma or its equivalent, who enroll in participating institutions have a success rate as determined under paragraph (h) of this section that is within 95 percent of the success rate of students with high school diplomas; and

(2) The State's process satisfies the requirements contained in paragraph (c) and (d) of this section.

### (b) Summary:

The Secretary will approve if: the State can demonstrate that the ATB-admitted students have a "success rate" (defined later) within 95% of the success rate of non-ATB students; and, the process meets the requirements of (c) and (d)

### (c) Summary:

The process must require institutions to provide ATB students with each of the (6) services listed, including: orientation; assessment through means other than a single test; tutoring; career goal development; counselling; and follow-up by teachers and counselors regarding student progress.

**(c)** A State process must require institutions participating in the process to provide each student they admit without a high school diploma or its recognized equivalent with the following services:

(1) Orientation regarding the institution's academic standards and requirements, and student rights.

(2) Assessment of each student's existing capabilities through means other than a single standardized test.

(3) Tutoring in basic verbal and quantitative skills if appropriate.

(4) Assistance in developing educational goals.

(5) Counseling, including counseling regarding the appropriate class level for that student given the student's individual's capabilities.

(6) Follow-up by teachers and counselors regarding the student's classroom performance and satisfactory progress toward program completion.

**(d)** A State process must –

- (1) Monitor on an annual basis each participating institution's compliance with the requirements and standards contained in the State's process;
- (2) Require corrective action if an institution is found to be in noncompliance with the State process requirements; and
- (3) Terminate an institution from the State process if the institution refuses or fails to comply with the State process requirements.

**(d) Summary:**

A State process must: annually monitor compliance of institutions participating; require corrective action for institutions not in compliance; and terminate institutional participation if it fails to comply.

**(e) Summary:**

The Secretary must respond within 6 months of state plan submission; if she does not respond, the plan is deemed approved. The process takes effect on the date of approval, or date 6 months after submission (if deemed approved).

**(e)**(1) The Secretary responds to a State's request for approval of its State's process within six months after the Secretary's receipt of that request. If the Secretary does not respond by the end of six months, the State's process is deemed to be approved.

(2) An approved State process becomes effective for purposes of determining student eligibility for title IV, HEA program funds under this subpart –

- (i) On the date the Secretary approves the process; or
- (ii) Six months after the date on which the State submits the

process to the Secretary for approval, if the Secretary neither approves nor disapproves the process during that six month period.

**(f)** The Secretary approves a State process for a period not to exceed five years.

**(g)**(1) The Secretary withdraws approval of a State process if the Secretary determines that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.

(2) The Secretary provides a State with the opportunity to contest a finding that the State process violated any terms of this section or that the information that the State submitted as a basis for approval of the State process was inaccurate.

**(f) and (g) Summaries:**

The process is approved for up to 5 years.

The Secretary can withdraw approval if the process violates any of these rules or if the State submitted inaccurate information. The State can contest this finding.

**(h) Summary:**

The State must calculate the success rate.

The Success Rate =  
the # of students with HSD/E who enrolled in participating institutions that academic year (AY) AND either (1) successfully completed their program, (2) remained enrolled at the end of the AY, or (3) successfully transferred and remained enrolled at the end of the AY.

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the # of students with HSD/E who enrolled in participating schools that AY, less the # of students who withdrew or were expelled during the AY and who received a 100 percent tuition refund.

This calculation must also be done for students without a HSD/E.

**(h)** The State must calculate the success rates as referenced in paragraph (b) of this section by–

- (1) Determining the number of students with high school diplomas who, during the applicable award year described in paragraph (i) of this section, enrolled in participating institutions and –
  - (i) Successfully completed education or training programs;
  - (ii) Remained enrolled in education or training programs at the end of that award year; or
  - (iii) Successfully transferred to and remained enrolled in another institution at the end of that award year;
- (2) Determining the number of students with high school diplomas who enrolled in education or training programs in participating institutions during that award year;
- (3) Determining the number of students calculated in paragraph (h)(2) of this section who remained enrolled after subtracting the number of students who subsequently withdrew or were expelled from participating institutions and received a 100 percent refund of their tuition under the institutions' refund policies;
- (4) Dividing the number of students determined in paragraph (h)(1) of this section by the number of students determined in paragraph (h)(3) of this section;

(5) Making the calculations described in paragraphs (h)(1) through (h)(4) of this section for students without a high school diploma or its recognized equivalent who enrolled in participating institutions.

**(i)** For purposes of paragraph (h) of this section, the applicable award year is the latest complete award year for which information is available that immediately precedes the date on which the State requests the Secretary to approve its State process, except that the award year selected must be one of the latest two completed award years preceding that application date.

**(i) Summary:**

When calculating the Success Rate, data must be from the latest complete academic year, among the most recent two completed academic years, for which information is available at the time the plan is submitted to the Secretary.

## Endnotes

<sup>1</sup> Higher Education Technical Amendments of 1991, P.L. 102-26

<sup>2</sup> Consolidated Appropriations Act of 2012, P.L. 112-74

<sup>3</sup> Continuing Appropriations Act 2015, P.L. 113-235

<sup>4</sup> Consolidated Appropriations Act of 2016, P.L. 114-113