Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket Nos. 3059, 5033, 5036, 5094, 6161, 6258; Amdt. 1-7]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Correction

In F.R. Doc. 64-13424, appearing at page 19186 of the issue for Thursday, December 31, 1964, paragraphs (e) through (g) of § 121.173 and all of § 121.175 were omitted inadvertently. The omitted matter should appear immediately after § 121.173(d), and should read as follows:

(e) No person may take off a reciprocating engine powered transport category airplane at a weight that is more than the allowable weight for the runway being used (determined under the runway takeoff limitations of the transport category operating rules of this Part) after taking into account the temperature operating correction factors in § 4a.749a–T or 4b.117 of the Civil Air Regulations as in effect on January 31, 1965, and set forth in the applicable Airplane Flight Manual.

(f) The Administrator may authorize in the operations specifications deviations from the requirements in the subpart if special circumstances make a literal observance of a requirement unnecessary for safety.

(g) The ten-mile width specified in §§ 121.179 through 121.183 may be reduced to five miles, for not more than 20 miles, when operating VFR or where navigation facilities furnish reliable and accurate identification of high ground and obstructions located outside of five miles, but within ten miles, on each side of the intended track.

§ 121.175 Transport category airplanes: reciprocating engine powered: weight limitations.

(a) No person may take off a reciprocating engine powered transport category airplane from an airport located at an elevation outside of the range for which maximum takeoff weights have been determined for that airplane.

(b) No person may take off a reciprocating engine powered transport category airplane for an airport of intended destination that is located at an elevation outside of the range for which maximum landing weights have been determined for that airplane.

(c) No person may specify, or have specified, an alternate airport that is located at an elevation outside of the range for which maximum landing weights have been determined for the reciprocating engine powered transport category airplane concerned.

(d) No person may take off a reciprocating engine powered transport category airplane at a weight more than the maximum authorized takeoff weight for the elevation of the airport.

(e) No person may take off a reciprocating engine powered transport category airplane if its weight on arrival at the airport of destination will be more than the maximum authorized landing weight for the elevation of that airport, allowing for normal consumption of fuel and oil en route.

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 13—EMPLOYEE STOCK OPTION AND STOCK PURCHASE PLANS

Scope and Application

This amendment issued under authority of R.S. 324, et seq., as amended, 12 U.S.C. 1, et seq., permits national banks, desiring to do so, to adopt employee stock option or stock purchase plans which do not qualify for special tax treatment under the Internal Revenue Act. Since the amendment relieves restriction, notice and public procedure are found to be unnecessary and contrary to the public interest. Accordingly, this amendment will become effective on publication.

Part 13, Chapter I, Title 12 of the Code of Federal Regulations of the United States of America is amended by revising § 13.1 to read as follows:

§ 13.1 Scope and application.

Any national bank may grant options to purchase, sell, or enter into agreements to sell, shares of its capital stock to its employees, whether or not such transactions qualify for special tax treatment under the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder, provided that the following conditions are met:

(a) Application for approval shall be made to the Comptroller of the Currency, Washington, D.C., 20220, in the form of a letter accompanied by the following information:

(1) A description of all material provisions of the plan.

(2) Proposed notice of shareholders' meeting, proxy and proxy statement.

(3) Number of shares of authorized but unissued stock to be allocated to the plan.

(4) Proposed amendments to articles of association creating authorized but unissued stock and eliminating preemptive rights as to the shares reserved under the plan;

(b) The plan is administered by a committee, none of whose members may participate in the plan;

(c) The number of shares allocable to any person under the plan is reasonable in relation to the purpose of the plan and the needs of the bank; and

(d) In the case of a stock option plan, the number of shares subject to the plan is not unreasonable in relation to the bank's capital structure and anticipated growth.

Dated: December 31, 1964.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 65-122; Filed, Jan. 6, 1965; 8:45 a.m.]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 18,719]

PART 545—OPERATIONS

Distribution of Earnings

DECEMBER 31, 1964.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 545.1-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1-1) by an amendment as hereinafter set forth, and for the purpose of effecting such amendment, hereby amends said section as follows, effective upon publication in the FEDERAL REGISTER:

§ 545.1-1 [Amended]

Section 545.1-1, aforesaid, is hereby amended by striking out the language "March 31, 1965" at each of the following places and inserting in lieu thereof at each such place the language "July 1, 1966": (1) In the proviso of paragraph (b); (2) in the last proviso of paragraph (c); and (3) in the proviso of the first sentence of paragraph (d).

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that, as the foregoing amendment does not necessitate any change in operations of Federal savings and loan associations which are now being carried on in accordance with the provisions of said § 545.1-1 but merely extends for fifteen months the temporary period during which, under the provisions of said section, certain distributions of earnings by such associations are subject to certain prohibitions already contained in said section and now in effect, the Board hereby finds that notice and public procedure on said amendment are unnecessary under § 508.12 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.12) or section 4(a) of the Administrative Procedure Act, and the Board hereby finds that, for the same reason, publication of said amendment for the period specified in section 4(c) of said act and § 508.14 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.14) prior to the effective date of said amendment is unnecessary.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 65-173; Filed, Jan. 6, 1965; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

Flour, Durum Flour, Whole Wheat Flour; Confirmation of Effective Date of Order Amending Identity Standards

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), notice is given that no objections, within the meaning of section 701(e)(2) of the act, were filed to the order published in the FEDERAL REGISTER of October 27, 1964 (29 F.R. 14623), amending the standards for flour and whole wheat flour, to provide for increases in the malted barley flour content, and flour and durum flour, to permit coarser granulation and prescribe testing methods.

One firm submitted a letter protesting the amendment in regards to the granulation specification, but this letter does not meet with the requirements of section 701(e)(2) of the act. Accordingly, this letter does not justify a stay of the granulation provision in the order or the scheduling of a public hearing.

The amendments promulgated by the above-identified order became effective December 26, 1964.

(Secs. 401, 701, 52 Stat. 1046, 1055; as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: December 31, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 65-168; Filed, Jan. 6, 1965; 8:48 a.m.]

PART 51—CANNED VEGETABLES

Canned Vegetables Other Than Those Specifically Regulated; Identity; Label Statement of Optional Ingredients

In the matter of amending the standards of identity for canned vegetables listed in § 51.990:

1. To permit the optional use of the seasonings corn sirup or glucose sirup or dried forms thereof in all vegetables listed; and

2. To list "French fry cuts" as an optional form of canned potatoes and to permit higher calcium levels in all forms of canned potatoes.

A notice of proposed rule making in the matter identified in paragraph 1 was published in the FEDERAL REGISTER April 17, 1963 (28 F.R. 3728), on the basis of a petition filed by Corn Industries Research Foundation, Inc., 1001 Connecticut Avenue NW., Washington, D.C., proposing that the standards of identity for canned vegetables other than those specifically regulated be amended by including corn sirup, corn sirup solids, glucose sirup, and glucose sirup solids in the list of optional seasoning ingredients permitted for use in these canned vegetables. The petition did not propose that these seasoning ingredients be designated for label declaration.

A notice in the matter identified in paragraph 2 was published in the FEDERAL REGISTER December 14, 1961 (26 F.R. 11988), based on a petition filed by Idaho Canning Co., Payette, Idaho, which proposed amendments of the food standard applicable to canned potatoes to give recognition to an additional optional form by the name "French fry cuts" and to permit the use of higher levels of calcium salts to improve the firmness of the canned potatoes.

The comments filed with reference to the matter identified in paragraph 1 were not supported by substantiating evidence.

No comments were received on the proposal for listing "French fry cuts" as an optional form. Two adverse comments were received on the proposed amendment to raise the level for calcium salts. One person, commenting as a consumer, complained that increased usage of calcium salts would degrade the texture and eating quality of canned potatoes. No data were furnished in support of this assertion. The other adverse comment pointed out that the petition proposed to increase the permissible level for calcium to not more than 0.2 percent. On the assumption that canned potatoes, containing added calcium salts at this maximum level, may be consumed in large amounts, this comment pointed out that a person might receive from canned potatoes an intake of calcium in excess of twice the adult daily allowance recommended by the National Research Council. The analytical data submitted with the petition proposing the amendment have been re-evaluated. None of the samples was reported as containing more than 0.098 percent of calcium. It is concluded that, in order to avoid having calcium salts added to canned potatoes in unnecessarily high amounts, the amendment should prescribe the maximum limit at not more than 0.1 percent of calcium.

On the basis of relevant information available and giving consideration to the comments filed, it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendments proposed, with the limit for calcium modified as stated, and in doing so to make minor editorial changes in the standard. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90; 29 F.R. 471): *It is ordered*, That, § 51.990 *Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients* be amended in the following respects:

§ 51.990 [Amended]

1. Paragraph (b) is amended by changing the item "Potatoes" in the table to read:

(b) * * *

I Name or synonym of canned vegetable	II Source	III Optional forms of vegetable ingredients
* * *	* * *	* * *
Potatoes	Tuber of the potato plant	Whole; slices or sliced; dice or diced; pieces; shoestring or French style or julienne; French fry cut.
* * *	* * *	* * *

2. Paragraph (c) is amended as follows:

By changing the calcium limitation in subparagraph (3)(i) from 0.051 percent to 0.1 percent; by changing the introduction to subparagraph (6) and by adding to subparagraph (6) a new subdivision (v) to provide for the use of additional seasoning ingredients; by deleting subparagraph (9); by amending subparagraph (8) and by redesignating subparagraphs (10), (11), and (12) as (9), (10), and (11) respectively; and by inserting after (11) a closing sentence in the paragraph. As amended, the affected portions of this paragraph read as follows:

(c) * * *

(3)(i) In the case of potatoes, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the potatoes, but in no case in a quantity such that the calcium contained in any such salt or mixture is more than 0.1 percent of the weight of the finished food.

* * * * *

(6) In the case of all vegetables (except canned mushrooms and except canned mashed sweetpotatoes as regards the seasonings listed in subdivision (v) of this subparagraph) one or more of the following optional seasoning ingredients may be added in a quantity sufficient to season the food:

* * * * *

(v) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.

* * * * *

(8) In the case of all vegetables, monosodium glutamate may be added in a quantity sufficient to season the food.

(9) In the case of canned asparagus packed in glass containers, stannous chloride may be added in a quantity not to exceed 15 parts per million calculated as tin (Sn).

(10) In the case of canned black-eye peas, disodium EDTA may be added in a

quantity not to exceed 145 parts per million.

(11) In the case of potatoes, calcium disodium EDTA may be added in a quantity not to exceed 110 parts per million.

The food is sealed in a container and so processed by heat as to prevent spoilage.

* * * * *

3. Paragraph (f) (9), (10), and (11) is amended by changing citations therein to correspond to the amendments made in paragraph (c). As amended these subparagraphs read as follows:

(f) * * *

(9) If the optional ingredient specified in paragraph (c)(9) of this section is present, the label shall bear the statement "stannous chloride added as a preservative," "stannous chloride added to preserve color," or "stannous chloride added to retain color."

(10) If the optional ingredient specified in paragraph (c)(10) of this section is present, the label shall bear the statement "disodium EDTA added as a preservative" or "disodium EDTA added to preserve color."

(11) If the optional ingredient specified in paragraph (c)(11) of this section is present, the label shall bear the statement "calcium disodium EDTA added as a preservative" or "calcium disodium EDTA added to preserve color."

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days following the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 948; 21 U.S.C. 341, 371)

Dated: December 31, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 65-169; Filed, Jan. 6, 1965; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter III—Public Housing Administration, Housing and Home Finance Agency

PART 1500—GENERAL PROCEDURAL PROVISIONS

Complaint Procedures; Nondiscrimination in Low-Rent Public Housing

Effective January 3, 1965, Chapter III, Public Housing Administration, is amended by adding a new § 1500.7 *Complaint procedure—nondiscrimination in low-rent public housing,* as follows:

§ 1500.7 Complaint procedure; nondiscrimination in low-rent public housing.

(a) *Introduction.* This section is issued under the authority of title VI of the Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; the regulations of the Housing and Home Finance Agency effectuating title VI of the Civil Rights Act of 1964, 24 CFR, Subtitle A, Part 1, § 1.1 et seq. of this title (herein referred to as "the HHFA regulations"); and section 502(b) of the Housing Act of 1948, 42 U.S.C. section 1404a. Notwithstanding the provisions of § 1500.6, *Complaint procedures—equal opportunity in housing,* the procedure prescribed in the HHFA regulations, as implemented by the Public Housing Administration in this § 1500.7, shall apply with respect to any complaint of discrimination on the ground of race, color or national origin in the low-rent housing program under the United States Housing Act of 1937, as amended, 42 U.S.C. 1401 et seq. The procedure prescribed in § 1500.6 shall apply only to complaints of discrimination on the basis of creed.

(b) *Definitions.* As used in this section:

(1) "Local Authority" means a "public housing agency" as defined in section 2(11) of the United States Housing Act of 1937, 42 U.S.C. 1402(11), which is a "recipient" of or an "applicant" for Federal financial assistance under that Act as defined in section 1.2 of this title (HHFA regulations). With respect to any federally owned or operated low-rent housing project, the housing project manager shall be deemed to be a "Local Authority" for purposes of this section.

(2) "Discrimination" means any action or practice of a local Authority of the kind prohibited by section 601 of the Civil Rights Act of 1964 or by § 1.4 (a) and (b) of this title (HHFA regulations), and, in the case of a project covered by a contract clause for equal opportunity in housing pursuant to section 101 of Executive Order 11063 (see § 1500.6(b)(2)), any action or practice prohibited by such clause relative to race, color, or national origin.

(3) "Project" means a low-rent housing project assisted under the United States Housing Act of 1937, including any low-rent housing project owned or operated by the Federal Government pursuant to said Act.

(4) "Commissioner" means the Public Housing Commissioner.

(c) *Complaints*—(1) *Filing.* Complaints of discrimination on the part of a Local Authority shall be filed with the appropriate Regional Director of the Public Housing Administration. A list of PHA Regional Offices with their addresses and areas of jurisdiction appears as Appendix A to this section. Regional Directors are authorized to extend the time for filing a complaint beyond the period specified in § 1.7(b) of this title (HHFA regulations).

(2) *Content.* A complaint shall be signed by the complainant or his representative and shall, insofar as known to complainant, name the Local Authority and the project involved, state the time, place, and nature of the alleged discrimination, set forth factual information known to the complainant supporting the allegation of discrimination, and state the complainant's interest in or relationship to the alleged discrimination.

(3) *Acknowledgment.* Upon receipt of a complaint, the Regional Director shall promptly and in writing acknowledge its receipt.

(4) *Further notice to complainant.* The complainant will be advised in writing when investigation of the complaint indicates discrimination and the matter is resolved by informal means. In all other respects, the procedure prescribed in the HHFA regulations will apply.

(d) *Effective date.* This section shall be effective January 3, 1965.

Approved: December 30, 1964.

MARIE C. MCGUIRE,
Commissioner.

APPENDIX A

LIST OF PHA REGIONAL OFFICES AND AREAS OF JURISDICTION

Regional office	*Areas of jurisdiction*
Atlanta: Room 737, Peachtree Building, Atlanta, Ga., 30323.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Chicago: Room 2201, 185 North Wabash Avenue, Chicago, Ill., 60601.	Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.
Fort Worth: Room 2072, 300 West Vickery Boulevard, Fort Worth, Tex., 76104.	Arkansas, Colorado, Kansas, Louisiana, Missouri, Oklahoma, New Mexico, Texas.
New York: 346 Broadway, New York, N.Y., 10013.	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.

LIST OF PHA REGIONAL OFFICES AND AREAS OF JURISDICTION—continued

Regional office	Areas of jurisdiction
Philadelphia: Room 1102, Widener Building, Chestnut and Juniper Streets, Philadelphia, Pa., 19107.	Delaware, Maryland, Pennsylvania, West Virginia, Virginia, District of Columbia.
Puerto Rico: Post Office Box 9197, Santurce, Puerto Rico, 00908.	Puerto Rico, Virgin Islands.
San Francisco: 450 Golden Gate Avenue, Box 36027, San Francisco, Calif., 94102.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.

NOTE: Any changes in this listing of PHA Regional Offices or their areas of jurisdiction will be published in the Notices section of the FEDERAL REGISTER under the heading "Housing and Home Finance Agency, Public Housing Administration, Description of Agency and Programs," or may be obtained by writing to the Public Housing Administration, Washington, D.C., 20413, or to any PHA Regional Office, or by inquiring at any Local Authority office.

[F.R. Doc. 65-142; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER A—REGULATIONS

PART 612—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

Wage Rates

Correction

In F.R. Doc. 65-46 appearing in the issue of Tuesday, January 5, 1965, at page 33, immediately following paragraph (f)(2) of § 612.2 insert the following paragraph:

(g) *New coverage classification.* (1) The minimum wage for this classification is $1.15 an hour between January 21, 1965 and September 2, 1965 and $1.25 an hour thereafter.

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.109(a), subparagraph (1) is amended to read as follows:

§ 3.109 Time limit.

(a) *Notice of time limit for filing evidence.* (1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application. If the evidence is not received within 1 year from the date of such notification, pension, compensation, or dependency and indemnity compensation may not be paid by reason of that application (38 U.S.C. 3003(a)). Information concerning the whereabouts of a person who has filed claim is not considered evidence.

* * * * *

2. In § 3.150, paragraph (d) is revoked:

§ 3.150 Forms to be furnished.

* * * * *

(d) [Revoked]

3. In § 3.152(c), subparagraph (1) is amended and subparagraph (4) is added so that the amended and added material reads as follows:

§ 3.152 Claims for death benefits.

* * * * *

(c)(1) Where a child's entitlement to dependency and indemnity compensation arises by reason of termination of a widow's right to dependency and indemnity compensation or by reason of attaining the age of 18 years, a claim will be required (38 U.S.C. 3010(e)). See subparagraph (4). Where the award to the widow is terminated by reason of her death, a claim for the child will be considered a claim for any accrued benefits which may be payable.

* * * * *

(4) Where payments of pension, compensation or dependency and indemnity compensation to a widow have been discontinued because of remarriage or death, or a child becomes eligible for dependency and indemnity compensation by reason of attaining the age of 18 years, and any necessary evidence is submitted within 1 year from date of request, an award for the child or children named in the widow's claim will be made on the basis of the widow's claim having been converted to a claim on behalf of the child. Otherwise, payments may not be made for any period prior to the date of receipt of a new claim.

4. In § 3.651, paragraph (a) is amended to read as follows:

§ 3.651 Change in status of dependents.

Except as otherwise provided:

(a) A payee who becomes entitled to pension, compensation, or dependency and indemnity compensation or to a greater rate because payment of that benefit to another payee has been reduced or discontinued will be awarded the benefit or increased benefit without the filing of a new claim.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: December 31, 1964.

By direction of the Administrator.

[SEAL] W. J. DRIVER, *Deputy Administrator.*

[F.R. Doc. 65-148; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Subtitle A—Department of Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER Q—CIVIL RIGHTS

PART 300—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF DEFENSE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Correction

In F.R. Doc. 64-13519, appearing at page 19291 of the issue for Thursday, December 31, 1964, the reference to "§ 300.11" in the first sentence of § 300.10(a) should read "§ 300.9".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 18—National Aeronautics and Space Administration

PART 18-54—CONTRACT APPEAL PROCEDURE

Procurement Regulations

1. Sections 18-54.000, 18-54.101, 18-54.102, 18-54.103, 18-54.111, 18-54.116, 18-54.120, and 18-54.122 revised in their entirety as follows:

§ 18-54.000 Scope of part.

This part establishes procedures for the adjudication of appeals arising from NASA contracts.

§ 18-54.101 Authority.

Under provisions of NASA Management Instruction 2-4-1A, January 1, 1965, the Board of Contract Appeals is authorized to act for the Administrator in hearing, considering and deciding appeals by NASA contractors from the findings of fact and final decisions of NASA contracting officers or their authorized representatives pursuant to the "Disputes" clause of a NASA contract.

§ 18-54.102 Notice of appeal.

An appeal from the findings of fact and final decision of a NASA contracting officer (or his representative if such representative has been authorized by the contracting officer to make final decisions pursuant to the "Disputes" clause) shall be made by submitting a notice in writing, addressed to the Board of Contract Appeals (hereinafter referred to as the Board), National Aeronautics and Space Administration, Washington, D.C., 20546. Such notice shall be filed within 30 days from the date of receipt of the written decision of the contracting officer of his authorized representative, unless otherwise provided in the contract. The original notice, together with two copies thereof, shall be mailed to or filed with the contracting officer from whose final decision the appeal is taken. The notice of appeal shall indicate that an appeal is thereby intended, and shall identify the contract (by number), the contracting officer, and specify the portion of the findings of fact and final decision from which the appeal is taken; however, an appeal shall not be deemed invalid if the notice expresses a desire for a review of a final adverse decision. The notice shall be signed by the contractor or his representative. A suggested form of notice of appeal is set forth in § 18-54.123.

§ 18-54.103 Action by contracting officer.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing or the date of receipt if otherwise filed, and shall forward such notice immediately to the Chairman of the Board for docketing. Within ten days from the date of receipt of the notice of appeal, the contracting officer shall transmit one copy of the notice of appeal to the General Counsel for use of Government counsel and one copy to the Board. The Board's copy shall be accompanied by a file consisting of:

(a) The findings of fact and the final decision from which the appeal is taken;

(b) All documents relied upon in making the findings and final decision;

(c) A copy of the contract and specifications, pertinent plans, amendments, and change orders;

(d) All correspondence between the parties relating to the dispute;

(e) Transcripts of any testimony taken in connection with the dispute and any affidavits or statements of any witnesses that were made prior to the notice of appeal; and

(f) Such additional information as the contracting officer may consider material.

True copies may be substituted for originals in this file.

* * * * *

§ 18-54.111 Motions to dismiss for lack of jurisdiction.

Defenses which go to the jurisdiction of the Board shall be raised by motion. However, the Board shall be deemed to have jurisdiction over any appeal, if timely filed, arising from the findings of fact and final decision of a NASA contracting officer or his authorized representative pursuant to the "Disputes" clause of a NASA contract. Filing of motions to dismiss for lack of jurisdiction shall not be unreasonably delayed. Motions to dismiss for lack of jurisdiction shall, upon application of either party, be heard and determined before oral hearing on the merits. The Board, however, has the right at any time to recognize its lack of jurisdiction to proceed in a particular case.

* * * * *

§ 18-54.116 Settlement.

A dispute may be settled at any time by the contractor's filing written notice withdrawing his appeal or by written stipulation between the contractor and the Government counsel filed with the Board settling either the entire dispute or any part thereof. If only part of the dispute is settled, the appeal shall continue as to any issues remaining in dispute.

* * * * *

§ 18-54.120 Decisions.

Decisions of the Board shall be made in writing and shall reflect the opinion of a majority of the members deciding the appeal. Copies of the decision shall be forwarded simultaneously to both parties. All final orders and decisions (except those required for good cause to be held confidential) shall be available for public inspection at the offices of the Board of Contract Appeals, National Aeronautics and Space Administration, Washington, D.C.

* * * * *

§ 18-54.122 [Reserved]

* * * * *

(42 U.S.C. 2473(b) (1))

Effective date. The provisions of §§ 18-54.000, 18-54.101, 18-54.102, 18-54.103, 18-54.111, 18-54.116, 18-54.120, and 18-54.122 are effective January 1, 1965.

HERBERT L. BREWER,
Acting Director of Procurement, National Aeronautics and Space Administration.

[F.R. Doc. 65-146; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 143—GUIDANCE AND COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS—STATE PROGRAMS

Part 143 of Title 45 of the Code of Federal Regulations, dealing with regulations for the administration of sections 501-504(a), inclusive, of Title V of the National Defense Education Act of 1958, 72 Stat. 1580, as amended (20 U.S.C. Ch. 17), is revised to read as set forth below.

Grants made pursuant to the regulations set forth below are subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of Section 601 of the Civil Rights Act of 1964 (P.L. 88-352).

Subpart A—Definitions

Sec.
143.1 Definitions.

Subpart B—State Plan—General Provisions

143.2 State plan.
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Subpart A—Definitions

§ 143.1 Definitions.

As used in this part:

(a) "Act" means the National Defense Education Act of 1958, as amended, 20 U.S.C. Ch. 17.

(b) "Commissioner" means the United States Commissioner of Education, Department of Health, Education, and Welfare.

(c) "Department" means the Department of Health, Education, and Welfare.

(d) "Elementary school" means a school which provides elementary education, as determined under State law.

(e) "Fiscal year," as used with respect to reporting and accounting requirements, means the period beginning on the first day of July and ending on the following June 30. (The calendar year of the ending date is used to designate the fiscal year.)

(f) "Junior college" means an institution of higher education which (1) is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited as a junior college by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6), if a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(g) "Local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision in a State, or any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) "Public," as applied to any school or institution, includes a school or institution of any agency of the United States, except that no such school or institution shall be eligible to receive any grant, loan, or other payment under the Act.

(i) "Secondary school" means a school which provides a secondary education, as determined under State law.

(j) "State" means a State of the Union, Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, or the Virgin Islands.

(k) "State educational agency" or "State agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by State law.

(l) "Technical institute" means an institution of higher education which (1) is organized and administered principally to provide a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited as a technical institute by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6), if a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

Subpart B—State Plan—General Provisions

§ 143.2 State plan.

(a) *Purpose.* A basic condition for the payment of Federal funds to a State under sections 501–504 of the Act is a State plan meeting the requirements of sections 503(a) and 1004(a) of the Act by providing (1) a program for testing students, as specified in subpart F of these regulations, in the public elementary and secondary schools or in the public junior colleges and technical institutes of such State, and, to the extent authorized by law in other elementary and secondary schools and in other junior colleges and technical institutes in such State; (2) a program of guidance and counseling, as specified in subpart G of these regulations, in the public elementary and secondary schools or public junior colleges and technical institutes of such State; (3) that the State agency will be the sole agency for administering the plan; (4) that the State agency will make such reports as the Commissioner deems necessary; and (5) for fiscal control and fund accounting procedures as specified in these regulations.

(b) *Effect of State plan.* The plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made, as well as a basis for determining the propriety of State and local expenditures in which Federal participation is requested.

(c) *Submission.* The State plan and all amendments thereto shall be submitted to the Commissioner by a duly authorized officer of the State educational agency. The plan shall indicate the official or officials authorized to submit plan material.

(d) *Amendments.* The administration of the programs shall be kept in conformity with the approved State plan. Whenever there is any material change in the content or administration of a program, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State educational agency affecting a program under the plan, the State plan shall be appropriately amended.

(e) *Certificate of the State educational agency.* The State plan and all amendments thereto shall include as an attachment a certificate of the officer of the State educational agency authorized to submit the State plan to the effect that the plan or amendment has been adopted by the State agency and that the plan, or plan as amended, will constitute the basis for operation and administration of the program in which Federal participation under sections 501–504(a), inclusive, will be requested.

(f) *Certificate of the State Attorney General or other appropriate State legal officer.* The State plan shall also include, as an attachment, a certificate by the appropriate State legal officer to the effect that the State agency named in the plan is the "State educational agency" as defined in § 143.1(k) which has authority under State law to submit the State plan and to carry out the programs described therein as the sole State agency responsible for administering the plan, and that all of the plan provisions are consistent with State law.

§ 143.3 State agency for administration.

(a) *Designation.* The State plan shall give the official name of the agency which will be the sole agency for administering the plan. Such agency shall meet the criteria set forth in § 143.1(k) defining "State educational agency."

(b) *Organization.* The State plan shall describe, by chart or otherwise, the organization of the State staff for the administration of the programs set forth in the plan. The lines of authority within the administrative unit or units responsible for the programs under the plan shall be shown, together with the administrative relationships of such unit or units to the rest of the State educational agency and to other related agencies.

§ 143.4 Authority of State agency.

The State plan shall set forth the authority of the State educational agency under State law to submit the State plan and to administer and supervise the programs set forth therein, including a description of the functional relationship between the State agency and (a) local educational agencies, and (b) junior colleges and technical institutes. Citations to, or copies of, all directly pertinent statutes and interpretations of law by appropriate State officials, whether by regulation, policy statement, opinion of the appropriate State legal officer, or court decision, shall be furnished as part of the plan. All copies shall be certified as correct by an appropriate official. If the agency is not authorized under State law to expend funds for testing students in any one or more elementary or secondary schools, or junior colleges or technical institutes, in the State, the authorized officer of the agency shall so certify, indicating the institutions or types of institutions thus excluded and giving the legal basis for his conclusion. In such cases, the Commissioner will arrange for testing such students under the authority contained in section 504(b) of the Act.

§ 143.5 Custody of funds.

The State plan shall designate the officer who will receive and provide for the custody of all funds to be expended under applicable State laws and regulations on requisition or order of the State agency.

§ 143.6 State fiscal procedures.

(a) *State administration.* The State plan shall provide for the fiscal administration of the plan by describing such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under the plan, inculding such funds paid by the State to the local and other participating educational agencies. Such administration shall be conducted in accordance with applicable State laws, policies, and procedures, which shall be identified in the plan or set forth in an appendix. Accounts and supporting documents relating to any program involving Federal participation shall be adequate to permit an accurate and expeditious audit of the program.

(b) *Audit of local and other participating educational agencies.* All expenditures claimed for Federal participation shall be audited either by the State or by appropriate auditors at the local level. The State plan shall indicate how the accounts of local educational agencies and other agencies participating in the State plan will be audited; and, when the audit is to be carried out at the local level, how the State agency will secure information necessary to assure proper use of funds expended under sections 503 and 504(a) of the Act by such educational agencies.

§ 143.7 Duties and qualifications of State personnel in professional positions.

(a) *Staff.* The State plan shall describe the duties of State administrative and supervisory positions under the plan. The State plan shall also set forth the minimum experience, education and other related qualifications required of all State personnel to be engaged in professional administration and supervision of guidance and counseling, and testing, programs. If State statutes or regulations establish such positions and give such information, the plan shall include citation to such statutes, or set forth in an appendix copies of pertinent regulations.

(b) *Advisory committee.* If a State advisory committee on guidance and counseling, or testing, is established, the plan shall describe the general composition and method of establishment of the committee and its duties.

§ 143.8 State agency program activities.

The plan shall set forth the program of the State agency for the administration and supervision of all plan programs, including standards and procedures for the initial and succeeding State approvals of local programs of guidance and counseling, and testing. Program reviews should be conducted by the State agency at least annually for the purpose of appraising the status of plan programs and their administration in terms of plan provisions and program objectives, which shall be stated in the plan.

§ 143.9 Reports.

The State plan shall provide that the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time, in such form, and containing such information as the Commissioner may consider reasonably necessary to enable him to perform his duties under Part A, Title V, of the Act and will keep such records and afford such access thereto, and will comply with such other requirements, as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 143.10 Continuing review of State administration.

In order to assist the State educational agency in adhering to statutory requirements and to the substantive legal and administrative provisions of its approved State plan, the Commissioner will conduct periodic reviews of the administration of programs under Title V–A of the Act.

§ 143.11 Fiscal Audits.

The State educational agency's program expenditure records are to be audited by the Department to determine whether the State agency has properly accounted for Federal funds.

Subpart C—Federal Financial Participation

§ 143.12 Effective date of plan.

Since the Federal Government participates only in amounts expended under the State plan, there can be no Federal participation in any expenditure made before the plan or applicable amendment thereto is in effect. For the purposes of this part, the earliest date on which the plan or applicable amendment thereto may be considered in effect is the date on which it is received in substantially approvable form by the Commissioner.

§ 143.13 Federal participation in general.

(a) *Nature.* The Federal Government will pay from each State's allotment, as reduced by expenditures required pursuant to section 504(b) of the Act, one-half of the total amount expended under the approved State plan: (1) By the State and local agencies in the establishment, maintenance, or extension of guidance and counseling, and testing, programs approved under the State plan; (2) for State agency supervisory or related services in the fields of guidance and counseling, and testing; and (3) for administration of the State plan. There can be no Federal financial participation in the expenditures made by local agencies for a guidance and counseling, or testing, program if the program has not been approved by the State agency prior to the incurrence of the obligation.

(b) *Equipment from a Communist country.* Annual appropriation acts for the Department of Health, Education, and Welfare have provided that no part of the funds appropriated for "Defense Educational Activities" shall be available for the purchase of teaching equipment or equipment suitable for use for teaching, in certain subjects, which can be identified as originating in or having been exported from a Communist country, unless such equipment is unavailable from any other source. Such a prohibition applies to expenditures with respect to which Federal participation is requested from allotments under section 502 or section 1008 of the Act.

(c) *Public nature of funds.* The expenditures to be considered in computing Federal financial participation must be made from public funds. Public funds do not include contributions by private organizations or individuals unless such contributions are deposited in accordance with State law to the account of a unit or agency of State or local government without such conditions or restrictions as would negate their public character.

§ 143.14 Proration of costs.

Federal financial participation is available only with respect to that portion of any expenditure which is attributable to an activity under the State plan. The State plan shall specify the basis for identifying and the method to be used in prorating State level expenditures to include only those attributable solely to State plan activities. The State educational agency shall include in its annual description of projected activities submitted to the Commissioner for each fiscal year its estimated prorated expenditures for salaries attributable to State plan activities. The State educational agency must also maintain records (documented on a before- and after-the-fact basis) to substantiate the proration of expenditures for applicable items such as salaries, travel, rent and equipment.

§ 143.15 Accounting basis for expenditures.

Subject to the provisions and limitations of the Act and this part, Federal financial participation will be available only for expenditures made under the plan in accordance with applicable State laws, rules, regulations, and standards governing expenditures of State and local funds. Each State shall use the accounting basis (cash, accrual or obligation) applicable to its State or local accounting. The State plan shall specify for State and for local level expenditures the particular accounting basis to be so used and shall set forth or incorporate by reference the applicable State laws, rules, and regulations which constitute the basis for defining and establishing how and when transactions made by the State and other participating agencies are considered to be expenditures. If the State or other participating agencies utilize other than a cash accounting basis, the State plan shall indicate the time period or other factors governing the liquidation of obligations.

§ 143.16 Use of State rule in determining the fiscal year's allotment to which an expenditure is chargeable.

Each allotment to a State under section 502 or 1008 of the Act is made with respect to a fiscal year commencing on July 1 and ending the following June 30. State and local laws and regulations shall be followed in determining to which fiscal year an expenditure by the State or local agency is chargeable for the purpose of earning the allotment.

§ 143.17 Transfer of funds to local agencies.

State plans shall set forth the policies and procedures to be used in the payment of funds to local agencies or other school authorities pursuant to an approved plan program, either (a) as a reimbursement for actual expenditures or (b) as an advance prior to expenditures. Advances shall not be eligible for inclusion as expenditures for the purposes of earning Federal financial participation until adequate evidence of actual expenditures for approved programs has been received and verified by the State educational agency. (See §§ 143.13 and 143.15.) Reimbursement or payment need not be uniform to all local agencies (i.e., the State plan may provide a method by which the ratio of reimbursement to total expenditures may be adjusted on an individual basis to meet local needs).

§ 143.18 Disposal of records.

(a) *General rule.* The State educational agency shall provide for keeping accessible and intact all records supporting claims for Federal grants or relating to the accountability of the grantee agency for expenditure of such grants and relating to the expenditure of matching funds: (1) For three years after the close of the fiscal year in which the expenditure was made; (2) until the State agency is notified that such records are not needed for program administration review; or (3) until the State agency is notified of the completion of the Department's fiscal audit, whichever is later.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be maintained until necessary adjustments have been reviewed and cleared by the Department.

(c) *Records of equipment.* Where nonconsumable equipment which costs $50 or more per unit is purchased with Federal financial participation, inventories and other records supporting accountability shall be maintained until the State agency is notified of the completion of the Department's review and audit covering the disposition of such equipment.

§ 143.19 Adjustments.

The State educational agency in its maintenance of program expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State's financial reports filed with the Commissioner.

Subpart D—Federal Payment Procedures

§ 143.20 Estimates and financial reports.

(a) *Reports.* The State agency shall submit, in accordance with procedures established by the Commissioner:

(1) A description of the activities to be carried on under the plan during the fiscal year;

(2) Reports of estimated total expenditures for activities under the plan during the fiscal year, and the amount of funds available to pay the non-Federal share of such expenditures;

(3) Following the end of the fiscal year, a report of the total expenditures made under the plan during the fiscal year; and

(4) Such other estimates and reports as are periodically needed to account properly for funds.

(b) *Effect of estimates.* Expenditures will not be precluded from Federal financial participation because of minor deviations from the information submitted pursuant to paragraph (a) of this section if they are otherwise made in accordance with the approved plan and the regulations.

§ 143.21 Federal payments.

Payments will be made in advance to States with approved plans on the basis of estimates and reports referred to in §§ 143.20 and 143.22(c), with appropriate adjustments for underpayments or overpayments for any prior period. In settling accounts upon the termination of Title V-A of the Act, or the termination of the State plan, the State shall refund to the Commissioner any overpayment which might have been made under section 504(a) of the Act.

§ 143.22 Effect of Federal payments and reallotment.

(a) *No waiver.* Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any Federal requirements.

(b) *Settlement of accounts.* The final amount to which the State is entitled for any period is determined on the basis of expenditures under the State plan with respect to which Federal financial participation is authorized.

(c) *Reallotment.* In order to provide a basis for reallotments by the Commissioner under section 502(b) of the Act, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements. No allotment (or reallotment) of funds may be carried over for use during a subsequent fiscal year.

§ 143.23 Certifying payments.

Payments will be certified periodically after: (a) The State has on file in the Office of Education a plan approved by the Commission; (b) the pertinent estimates and reports required by §§ 143.20 and 143.22(c) have been reviewed; and (c) the Commissioner is satisfied that the State needs the funds and will be able to carry out the plan during the current fiscal year.

§ 143.24 Interest on Federal grants.

Interest earned on Federal grants shall be credited to the United States. The State agency shall submit as a part of each annual financial report a statement showing the amount of interest earned on Federal funds during that period. Ordinarily such interest earnings will be considered in the adjustment of the Federal-State account; but for the last year of the program, payment of interest shall be made by the State to the Commissioner.

Subpart E—State Supervisory Services and Administration

§ 143.25 Programs for supervisory services and administration.

The State plan shall describe the programs of the State agency for supervisory and related services in public elementary and secondary schools in the fields of guidance and counseling, and testing; and administration of all plan operations. There may be Federal participation in State agency expenditures for such programs to the extent that they are directly related to the establishment, maintenance, and improvement of guidance and counseling, and testing, programs developed under the plan.

(a) *Categories of activities.* Such programs may include the following activities: (1) The organization, general direction and coordination of the guidance and counseling, and testing, programs established under the plan; (2) planning State programs and assisting in the planning of local programs; (3) assisting local guidance personnel in establishing, maintaining, or improving programs; (4) planning and preparation of materials and information for State and local programs; (5) demonstrating through pilot programs, or otherwise, guidance and counseling, and testing, procedures and techniques; (6) evaluating the results of guidance and counseling, and testing, programs; and (7) such other related activities as may be necessary for the organization, maintenance, and improvement of programs established under the plan.

(b) *Categories of expense.* The cost of administration and of supervisory and related services, in guidance and counseling, and testing, programs in which Federal participation may be claimed includes such categories of expense as the following, to the extent that the items of cost are attributable to the programs approved under the State plan: (1) Salaries of the staff, both clerical and professional; (2) consultants' fees; (3) expenses of committees, workshops and conferences, including the travel of those representing the State agency or acting in an advisory capacity to it; (4) contractual services consistent with State laws and regulations and the State plan, provided such services do not result in the relinquishing by the State agency of any part of its responsibility for supervisory and related services; (5) office equipment and equipment necessary for State programs of guidance and counseling, and testing; (6) communication; (7) supplies, printing, and printed materials, including reference books; (8) purchase or rental of tests, answer sheets, profile sheets, cumulative record forms, and such other materials as may be necessary under the plan; (9) rental of equipment for scoring, processing, and reporting the results of tests administered under the plan or, if such equipment is owned by State or local agencies, the pro rata share of the cost of maintaining and operating such equipment; (10) rental of office space as provided in paragraph (c) of this section; (11) employer's contributions to retirement, workmen's compensation, and other welfare funds maintained for one or more general classes of employees of the State agency; (12) machine processing of administrative and program data; and (13) travel expenses of staff and consultants.

(c) *Office space.* Federal financial participation will be available for expenditures for office space (including the cost of utilities and janitorial services) in privately or publicly owned buildings if: (1) The expenditures for the space are necessary, reasonable, and properly related to the efficient administration of the plan programs of guidance and counseling, and testing, or for supervisory or related services; (2) the State agency will receive benefits during the period of occupancy commensurate with such expenditures; (3) the amounts paid by the State agency are not in excess of comparable rental in the particular locality; (4) the expenditures represent an actual cost to the State agency; and (5) in the case of publicly owned buildings, like charges are made to other agencies occupying similar space.

§ 143.26 Studies, investigations, and demonstrations.

Expenditures may be made under the plan to determine, evaluate, and demonstrate: (a) Local or State guidance and counseling, and testing, needs; (b) the effectiveness of procedures in guidance and counseling, and testing; and (c) the results of program operations. Expenditures for such services are allowable expenses to the extent that they fall within the categories of allowable expenses specified in § 143.25(b).

§ 143.27 Professional personnel.

The Federal Government will participate, with respect to those categories of expense that are set forth in § 143.25(b), in the cost of supervisors, consultants, or instructors used by the State agency in the conduct of professional activities, including conferences and workshops: (a) To develop, improve and strengthen the conduct and quality of guidance and counseling, and testing, programs; and (b) to develop materials, procedures, and techniques to improve the quality and conduct of guidance and counseling, and testing, programs.

§ 143.28 Conduct of supervisory or related services.

The State educational agency may set forth provisions in the plan, which are not inconsistent with its supervisory responsibilities, to conduct, in part, professional supervisory and related services in public elementary or secondary schools by: (a) Utilizing local educational agencies or other public agencies to conduct certain of the activities specified in § 143.25(a), § 143.26, § 143.27; and (b) providing for the establishment of cooperative arrangements among units of the State agency, or between the agency and other public agencies or private agencies or organizations, which will provide maximum opportunity for the utilization of all available resources to improve the quality of guidance and counseling, and testing, programs under the plan.

Subpart F—Program for Testing Aptitudes and Ability

§ 143.29 Purposes of testing program.

The State plan shall provide for a testing program to identify students with outstanding aptitudes and abilities in public elementary and secondary schools, including at least one test not above grade 12, and may extend it to students in public junior colleges and technical institutes, which program shall, if authorized by law, also be extended to students in other elementary and secondary schools and other junior colleges and technical institutes. Such a program shall: (a) Provide such information about the aptitudes and abilities of students as may be needed in connection with the counseling and guidance program under the plan (see § 143.33); and (b) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

§ 143.30 Testing defined.

"Testing," as used in section 503(a)(1) of the Act, means the use of tests which measure abilities from which aptitudes for the individual's educational or career development validly may be inferred.

§ 143.31 Conduct of testing program.

(a) *Utilizing other agencies.* In administering the testing program, the State educational agency may: (1) Utilize local agencies to conduct the testing program under State supervision; (2) provide for a testing program to be planned and administered by a local agency under the plan; and (3) contract with public or private institutions or agencies, or with individuals for services (e.g., machine scoring of tests and reporting of test results) which are not inconsistent with its responsibilities.

(b) *Expenditures of local agencies.* If the State agency conducts a testing program under the provisions of subparagraph (1) or (2) of paragraph (a) of this section, expenditures otherwise appropriate are subject to Federal participation when made by the local agency for (1) the purchase or rental of tests, answer sheets, profile sheets, cumulative record forms, and such other materials as may be necessary under the plan; (2) the rental of equipment for scoring, processing, and reporting the results of tests administered under the plan or, if owned by State or local agencies, the pro-rata share of the cost of maintaining and operating such equipment; or (3) contractual services, not inconsistent with State and local responsibilities, for machine scoring of tests and reporting of test results.

§ 143.32 Plan requirements for testing programs.

The plan shall describe the primary objectives of the program, including procedures for providing each local educational agency, nonpublic elementary or secondary school, junior college, and technical institute (to the extent that they enroll students in the grade levels covered by the plan testing program and are not excluded from participation pursuant to § 143.4) with an opportunity to participate, and shall provide for annual reviews by the State agency of progress toward meeting such objectives. The plan shall describe the provisions for carrying out the program, including: (a) The types of tests to be utilized for the measurement of aptitudes and abilities; (b) the grade level of students to be tested; and (c) the procedures to be utilized in the selection and administration of tests with the view of obtaining optimum benefits from such tests. The plan shall provide that the program will be made available to all students in the specified grades in the schools of the participating local educational agencies and in the other participating schools, junior colleges and technical institutes.

Subpart G—Guidance and Counseling Programs

§ 143.33 Scope and purposes.

(a) Guidance and counseling programs which are established, maintained or extended under the plan shall serve (1) to advise students, in public elementary and secondary schools or public junior colleges and technical institutes, regarding courses of study best suited to their ability, aptitudes, and skills; (2) to advise students relative to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields; and (3) to encourage students with outstanding aptitudes and ability to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions.

(b) Such programs shall provide assistance, appropriate to the educational levels of the students, by (1) assessing the abilities, aptitudes, interests, and educational needs of each student; (2) developing understandings of educational and career opportunities and requirements; (3) helping students, directly and through their parents and teachers, to achieve educational and career development commensurate with their abilities, aptitudes, interests and opportunities; and (4) interpreting student needs for expanded or modified educational activities.

(c) Such programs shall include the following guidance and counseling activities to the extent that they are carried out by utilizing procedures and techniques appropriate to the educational levels of the students and are directed toward the achievement of the foregoing purposes:

(1) Collecting, organizing, and interpreting such information as may be appropriate to the understanding of the student's abilities, aptitudes, interests, and other personal assets and liabilities related to educational readiness and progress and to career planning and development;

(2) Making available to the student and his parents such educational and career information as may be essential for them to understand the educational process and the various educational and career opportunities and requirements related to the choice of an educational program and a career;

(3) Providing individual counseling (i) to help the student and his parents develop a better understanding of the student's educational and occupational strengths and weaknesses; (ii) to help the student and his parents relate his abilities and aptitudes to educational and career opportunities and requirements; (iii) to help the student, with the assistance of his parents, make appropriate educational plans, including the choice of courses and the choice of an institution of higher education; (iv) to stimulate desires in the student to utilize his abilities in attaining appropriate educational and career goals; and (v) to provide the student, directly or through arrangements with other appropriate resources, with such assistance as may be needed for the development of his aptitudes and the full utilization of his abilities;

(4) Providing services to encourage and assist students in making educational transitions, such as placement in the next educational level, and in securing appropriate employment during and upon completion of the educational program;

(5) Providing such group activities as may be necessary to orient students and their parents to the (i) school program including its offerings, services, and requirements; (ii) educational opportunities and requirements at the next level; and (iii) career opportunities and requirements;

(6) Providing to teachers and school administrators such assistance and information about indiivdual students or groups of students as may be necessary to enable them to plan and implement curricular and instructional programs and services which will afford students maximum and equal opportunity for educational development, and which will be consistent with the manpower needs of the State and the Nation; and

(7) Collecting and analyzing such information as may be needed to evaluate the guidance and counseling program and to provide such guidance information as may be available and needed to evaluate the school's program in terms of the educational needs of the students and of the State and the Nation.

§ 143.34 Categories of expenditures applicable to approved local guidance and counseling programs.

Categories of allowable expenditures for the supervision and operation of local guidance and counseling programs approved by the State educational agency under the standards and procedures established pursuant to § 143.35(a) in public elementary and secondary schools or public junior colleges and technical institutes include the following:

(a) Salaries and necessary travel expenses of local school guidance personnel to the extent that they are engaged specifically in activities under the plan and within the scope of the activities listed in § 143.33 or in accordance with State plan provisions authorized by § 143.28. The employer's contribution to retirement, workmen's compensation, or other welfare funds maintained for one or more general classes of employees of the local agency may be included.

(b) Salaries of clerical personnel assisting local guidance personnel engaged in the operation of a local guidance and counseling program under the plan.

(c) The purchase and maintenance of office equipment necessary to meet the plan requirements with respect to professional guidance and counseling activities.

(d) The purchase of such materials (including library source materials) and supplies as may be necessary to fulfill the functions of the guidance and counseling program under the plan.

(e) Necessary travel expenses for local guidance personnel engaged in plan activities to participate in such professional activities, including conferences and workshops, as may be approved under the plan by the State educational agency.

§ 143.35 Plan requirements applicable to guidance and counseling programs.

(a) The plan shall set forth a program for guidance and counseling in public elementary and secondary schools, and may provide for such a program in public junior colleges and technical institutes, and shall include the following items, differentiated with respect to such types of schools or institutions where appropriate:

(1) Procedures to be employed by the State educational agency in the initial and succeeding approvals of local guidance and counseling programs for participation under the plan, and the methods to be used in the conduct of the professional reviews of such programs pursuant to § 143.8.

(2) Minimum professional standards to be employed by the State educational agency for approval of local guidance and counseling programs with respect to (i) a testing program which fulfills the purposes established in § 143.29; (ii) the guidance and counseling activities to be provided and the grade levels of students who are to be the participants in such activities; (iii) the duties of and qualifications for local guidance and counseling positions; (iv) the ratio of students to each full-time local guidance and counseling position or its equivalent filled by a person performing the duties and meeting the qualifications called for by subdivision (iii) of this subparagraph; and (v) the physical facilities, equipment, and materials to be available for the conduct of guidance and counseling activities under the plan.

(3) Professional standards recommended by the State agency for local guidance and counseling programs, in the areas of minimum standards established under subparagraph (2) of this paragraph, with a description of such steps as may be required to meet such recommended professional standards.

(4) Supervisory methods and procedures to be employed in local guidance and counseling programs under the plan.

(5) Coordination methods and procedures to provide assurance of appropriate relationships between the local guidance and counseling program under the plan, and other related services available to students.

(6) Categories of expenditures in local guidance and counseling programs (§ 143.34) to be included by the State educational agency as a part of the total amount expended to earn its allotment under section 502(a) of the Act.

(b) The State plan may also provide for the establishment of guidance and counseling programs designed to meet special needs of students or unusual circumstances in the community in which the local agency is located, such as cultural differences, economic deprivation, dropouts, and youth unemployment. The plan shall provide that any such special programs be consistent with §§ 143.26 and 143.33, and describe the conditions under which the State will establish such programs including provisions for State supervision, evaluation, and reports to the Commissioner.

§ 143.36 Transition provisions.

State plan. A State plan approved prior to the promulgation of these revised regulations remains in effect through June 30, 1965, unless prior to June 30, 1965, the State plan is revised to be in accord with these revised regulations. After June 30, 1965, in order for a State to receive payments under Title V–A of the Act, the State plan must have been revised to be in conformity with the revised regulations.

These revised regulations are effective immediately.

[SEAL] FRANCIS KEPPEL,
U.S. Commissioner of Education.

Approved: December 31, 1964.

ANTHONY J. CELEBREZZE,
Secretary of Health, Education, and Welfare.

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