3. Public Comment on Resource Options Issue Paper [1]
4. Council Decision on Approval of Natural Gas Litigation Settlement [2]
5. Council Business
6. Public Comment

July 19

Public Hearing on Draft Amendment Document for Columbia Basin Fish and Wildlife Program.

FOR FURTHER INFORMATION CONTACT:
Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–18428 Filed 7–9–84; 1:45 pm]

BILLING CODE 0000–00–M

[2] Copies of the natural gas company litigation settlement can be obtained by calling Frank Ostrander, General Counsel, at the above-listed numbers.

federal register

Wednesday
July 11, 1984

Part II

Office of Personnel Management

5 CFR Part 532
Prevailing Rate Systems; Final Rule

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: The Office of Personnel Management.
ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this regulation to complete the second phase of the implementation of revised regulations for supervisory wage employees. The regulation will change the WS–19 linkage point in the pay formula for wage supervisors from GS–14, step 2, to GS–14, step 3, in accordance with an earlier decision by OPM that such a change was required on the basis of a review of comparable positions in the private sector.

EFFECTIVE DATE: July 28, 1984.

FOR FURTHER INFORMATION CONTACT: David Weisberg, (202) 632–7830.

SUPPLEMENTARY INFORMATION: On March 30, 1983, OPM published a final rule (48 FR 13384) to change the pay and grading plan for Federal wage supervisors in accordance with private industry practices. These changes were scheduled to be carried out over a two-year period to minimize government expenditures under the Administration's economic recovery program. However, an additional 90 days are needed to implement these changes because of the delay in wage area schedule adjustments required by Pub. L. 98–151, dated November 14, 1983.

Under the second phase of the supervisory adjustments, the WS–19 linkage point in the supervisory pay formula will be raised from GS–14/2 to GS–14/3. This change will take place on a wage area by wage area basis, beginning the first day of the first pay period on or after July 28, 1984. A separate OPM bulletin (FPM bulletin 532–55, dated May 29, 1984) instructs agencies on the actions to be taken to raise the grades of all properly graded General Foremen coincident with this regulatory change in the pay formula for wage supervisors. Pursuant to section 553(b)(3)(B) of Title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because the decision to change the supervisory pay formula linkage in two phases (of which this is the second) was published in proposed rules on May 21, 1982 (47 FR 21100), and was adopted as a final rule on March 30, 1983 (48 FR 13384).

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because their only measurable impact will be on the large Federal agencies which have significant numbers of supervisory wage positions.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

PART 532—PREVAILING RATE SYSTEMS

Accordingly, the Office of Personnel Management is revising 5 CFR 532.203(d)(2) to read as follows:

§ 532.203 Structure of regular wage schedules.

* * * * *

(d) * * *

(2) For grades WS–11 through WS–19, based on a parabolic curve linking the WS–10 rate to the WS–19 rate, which latter rate is equal to the third rate in effect for General Schedule grade GS–14 at the time of the area wage schedule adjustment.

* * * * *

(5 U.S.C. 5343, 5346)

[FR Doc. 84–18300 Filed 7–10–84; 8:45 am]
BILLING CODE 6325–01–M

federal register

Wednesday
July 11, 1984

Part III

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 309

Handicapped Children's Early Education Program; Final Regulations

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 309

Handicapped Children's Early Education Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations under section 623 of Part C of the Education of the Handicapped Act, as amended. The Handicapped Children's Early Education Program provides support through grants, contracts, and cooperative agreements to public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs. Awards are also provided to assist States in planning, developing, and implementing comprehensive delivery systems that provide special education and related services to handicapped children from birth through five years of age.

EFFECTIVE DATE: These regulations will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, with the exception of § 309.54(b). Section 309.54(b) will become effective following the Department of Education's submission and the Office of Management and Budget's (OMB) approval of reporting requirements contained in that section under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Becky Calkins, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 4611), Washington, D.C. 20202. Telephone: (202) 732–1165.

SUPPLEMENTARY INFORMATION: The Handicapped Children's Early Education Program was established under Pub. L. 91–230 on April 13, 1970, and is currently authorized by Section 623 of Part C of the Education of the Handicapped Act (20 U.S.C. 1423).

A notice of proposed rulemaking was published on April 20, 1984 (49 FR 16960). The comments received in response to this notice and the Secretary's responses to those comments are summarized below:

Comment. One commenter suggested that the phrase "in developing and implementing" in § 309.1(a) be changed to "in developing, implementing, and disseminating" to better reflect the program goals.

Response. No change has been made. A fuller description of the kinds of projects supported under § 309.1(a) is contained in § 309.10 and addresses the concerns of the commenter.

Comment. One commenter suggested that the language "establish specific strategies" be changed to "establish and document specific strategies" to better reflect the activities of demonstration projects as described under § 309.10(a)(1).

Response. No change has been made. The Secretary believes that the concerns of the commenter have been adequately met in the requirements for project applications under § 309.20.

Comment. One commenter suggested that "in providing quality services" under § 309.10(a)(2) be changed to "in providing and expanding quality services" to better reflect the activities of outreach projects.

Response. A change has been made. The phrase "dissemination and diffusion" has been changed to "replication." In addition, the phrase "in expanding and improving services to handicapped children" is used to indicate that projects may be proposed either to improve services to children already served by a program or to expand services of an existing program.

Comment. Several commenters urged that program eligibility for Handicapped Children's Early Education Program outreach projects be restricted to applicants who have successfully completed a demonstration project and have continued the demonstration project with another funding source. Two other commenters supported the inclusion of other applicants if provision is made for assuring the quality of the model program proposed for adoption through outreach activities.

Response. A change has been made. The Secretary recognizes the contribution to educational excellence of the outreach projects supported under the Handicapped Children's Early Education Program. There are, however, other programs of proven value for handicapped children within the age range of birth through eight years which have been supported by other funding sources. Dissemination and diffusion of these qualified projects among States and local communities could be of substantial benefit to handicapped children. Section 309.10(b)(2)(i) has been revised to require that applicants have completed demonstration projects assisted under the Handicapped Children's Early Education Program, or projects assisted with other Federal, State, local, private, or non-profit funding sources that have achieved effective results with children.

Comment. One commenter suggested that § 309.20(a)(1) be revised by adding "and characteristics of families" after "children" to better reflect current demographic data collection.

Response. No change has been made. The Secretary believes that the potential value of this information would not outweigh the burden this data collection effort would impose upon grantees.

Comment. One commenter suggested that a "description of the intervention or experimental approach, including a statement of philosophy or curriculum" be substituted in § 309.20(a)(3) for "curriculum" as being more specific to program needs.

Response. No change has been made. The information on the intervention or experimental approach, including a statement of philosophy, is already included in applications, in response to the selection criterion under § 309.33(a)(2)(iii), *Plan of operation.*

Comment. One commenter suggested that "disseminate and to" be added before "promote the adoption" in § 309.20(a)(8) to better reflect the desired activities.

Response. A change has been made. The language suggested by the commenter has been added to § 309.20(a)(8) to make it consistent with § 309.10(a)(1).

Comment. Four commenters noted that combining demonstration and outreach application requirements in § 309.20 is somewhat confusing and requires the outreach applicants to respond with data on the adopting sites that might not be available at the time of application submission.

Response. A change has been made. To make a clearer distinction between demonstration and outreach projects, the phrase "or an outreach project" in § 309.20(a) and the entire § 309.20(c) have been dropped from this section. A conforming change has been made to the heading at § 309.20.

Comment. Several commenters suggested various additions to § 309.21 regarding application requirements for an outreach project, including plans to evaluate the project's effectiveness.

Response. Changes have been made. The Secretary has adopted most of these suggestions and believes that the changes to §§ 309.20 and 309.21 will substantially reduce information collection and reporting burdens on potential applicants, while strengthening and clarifying application requirements to ensure selection of worthy outreach project proposals. Section 309.21 has

been revised by inserting a new paragraph (b): "(b) For each agency listed, a description that includes—(i) The nature and scope of the agency's current services; (ii) How those services will be affected through outreach activities; (iii) The anticipated impact of outreach assistance; and (iv) Evidence that the agency is interested in cooperating with the applicant's outreach activities." A new paragraph (c) has been added to read: "(c) A description of the model program upon which their demonstration project is based, including evidence of the effectiveness of the model program with children, parents, or other recipients of the model programs's services." Paragraphs (b)–(f) in § 309.21 of the regulations have been retained and renumbered. Evaluation plans are already required under § 309.33(d).

Comment. One commenter requested that a sentence be added to § 309.21 to require inclusion in the applications of "a statement of outreach program focus delineated that meets one or more of the priorities under § 309.32."

Response. No change has been made. Section 309.30 describes the procedures used by the Secretary to announce which priorities are to be addressed by applicants.

Comment. Two commenters requested that priorities be added under §§ 309.31 and 309.32 that address demonstration and outreach "especially projects that serve ethnic and linguistic minority group handicapped children and economically disadvantaged children," and "projects to serve migrant handicapped children."

Response. A change has been made. The intent of §§ 309.31(c) and 309.32(b) in the proposed regulations was to give attention to the needs of those groups as unserved or underserved handicapped children. The language recommended by the commenter has been added to §§ 309.31(c) and 309.32(b) to make it clear that projects will be invited that propose activities designed to meet the special needs of those populations.

Comment. One commenter expressed concern about the lack of specificity of priorities listed under § 309.32 (a), (b), and (d) for outreach programs.

Response. No change has been made. The purpose of priorities is to allow the Secretary to annually determine the needs of the field and to request projects addressing these needs. Flexibility is needed in priority statements so that the entire needs of a field may be requested within priorities without precluding important aspects by overly specific language. In outreach priorities, the Secretary believes that flexibility is needed in order to adapt program models from demonstration funding into program models needed by various States and regions.

Comment. One commenter suggested that for purposes of clarifying the status of the State Planning Grant, the word "one" be substituted for "a" in § 309.50(a) in the phrase "The Secretary makes a grant to each State * * *" and the word "or" be substituted for the word "and" in the phrase "planning, developing, and implementing * * *"

Response. A change has been made. The use of the term "a grant" is appropriate since a single State may, over a period of time, apply for each type of grant. The suggestion to change "and" to "or" has been adopted.

Comment. One commenter felt that the description of the comprehensive service delivery system under § 309.51(b) lacked the elements of (1) the necessary legislative and administrative authority, including standards, regulations, and policy, and (2) provision of adequate fiscal resources to support services.

Response. No change has been made. The Secretary believes that the provisions of § 309.51(b) give notice to States that these elements must be considered in planning, developing, or implementing a comprehensive early childhood service delivery system.

Comment. One commenter suggested that § 309.50(b) by expanded to include other elements necessary to the successful operation of a comprehensive statewide delivery system, including transportation, nutrition, public awareness, case management, and technology applications.

Response. A change has been made. The language in § 309.50(b) now indicates that the elements listed under this section are not exclusive. The Secretary believes, however, that further specificity is unnecessary and that States should be given as much flexibility as possible to add elements which are necessary and appropriate to meet their unique needs.

Comment. One commenter noted the absence of a global definition of "at risk" handicapped children and the inclusion of the "prenatal period" in the definition of a comprehensive State Plan (§ 309.50(b)(1)).

Response. No change has been made. The Secretary recognizes that the States' definitions of these terms will vary and believes that the States should be given flexibility to develop services for these two populations within their unique circumstances and capabilities.

Comment. One commenter suggested that "agencies" be changed to "responsible State agencies" in § 309.50(c) for consistency with the first paragraph of the section.

Response. No change has been made. The rest of the language of § 309.50(c) defines the agencies' responsibility in a manner consistent with § 309.50(a).

Comment. Two commenters suggested extensive changes to § 309.51 (a) and (b). One commenter suggested extensive additional requirements and information for the purpose of each State's planning and monitoring process. Other comments pointed out the need to relate previous State efforts in the description of activities for Development Grants. Both commenters suggested that applications for Planning Grants should focus on the planning procedures, needs assessment or the results of previous needs assessments, the delineation of groups affected by coordinated State Plans, management plans, policies needed, and personnel and fiscal resources for planning activities.

Response. A change has been made. The Secretary believes that the burden of providing extensive additional information and imposing further requirements for applications for State Planning Grants would restrict the abilities of applicant States to determine their best patterns of organizing and planning. Information on the design of the planning process, is, however, relevant to the Planning Grant and distinguishes this type of project from a Development Grant. Thus, § 309.51(b)(2) has been amended to require applications to include the preliminary plans and procedures for designing a plan.

Comment. One commenter suggested that the phrase "successfully completed planning activities" be deleted from § 309.52(a) as not required by statute.

Response. No change has been made. The Secretary interprets the Act to require that States demonstrate readiness to move from planning to development activities prior to receiving approval for a State Development Grant.

Comment. One commenter recommended that the application under § 309.50(b) specify the State authority that must approve the Early Childhood State Plan.

Response. No change has been made. The Secretary has relied on the statutory language, section 623(b)(2)(B) of the Act, regarding this matter. The statute indicates that the approving body could be the Commissioner, the State board, or another agency. Since the approving body varies from State to State, the approving body could not be specified within the regulations.

Comment. One commenter suggested that the following language be added to

the application requirements at §309.52(b)(6): "Proposed activities to attain results called for in the objective statements, general timelines, and an outline of resources that may be needed."

Response. No change has been made. These suggestions have not been included here, since the provisions under § 309.51(b) are designed to elicit this information as States progress from planning to implementation projects.

Comment. One commenter suggested language to ensure public input and feedback to the State Plan and to publish and distribute the State Plan to interested parties within the State, seeking modifications of both §§ 309.52(b)(7) and 309.53(b)(6).

Response. No change has been made. Section 309.51(b)(2) already requires States to assure public awareness of the development and implementation of the State Plan.

Comment. Two commenters recommended that in § 309.53(b) the Implementation Grant applications require States to report on evaluation activities with Implementation Grants.

Response. No change has been made. The Secretary does not wish to impose additional data collection and reporting burdens on States.

Comment. Several commenters expressed concern about the lack of designation of the State educational agency as the focal point in planning, developing, or implementing the Early Childhood State Plan described in §§ 309.50–309.54. Some commenters noted the traditional role of the State educational agency in establishing educational services for preschool handicapped children. Others suggested that the lack of involvement with State educational agencies in planning, developing, and implementing early childhood programs and services could pose potential problems in ensuring a State's compliance with State and Federal laws governing the education of handicapped children. Several commenters recommended that first priority be given to State educational agencies as applicants and grantees, especially where a State's law requires the provision of special education and related services to preschool handicapped children.

Response. A change has been made. In the notice of proposed rulemaking, the Secretary included provisions to make it clear that (1) an applicant for a State Grant must have some responsibility, under State law or policy, for the *education* of handicapped children from birth through five years of age in the State; (2) that any agency with that responsibility can participate in a joint project with any other responsible agency; and (3) that an agency that is not a State educational agency must submit an assurance that it will coordinate with the State educational agency in carrying out the grant (§§ 309.50–309.54). Nothing in the statute or these regulations precludes a State educational agency from establishing reasonable conditions as a basis for its participation in a State Grant project conducted by some other responsible agency. The language in § 309.54 has been revised to emphasize that if an agency other than the State educational agency applies for a State grant, it must provide the assurances and evidence that it will coordinate with and involve State educational agency in applying for an award and in conducting its project. The Secretary believes, however, that giving a priority to the State educational agency is beyond the scope of authority provided by the statute, and would not be appropriate in those States where agencies other than the State educational agency have legal or delegated authority for serving certain age groups of handicapped children in the age ranges of birth through five.

Comment. One commenter suggested clarifying the relationship of the State Plan with the activities of "child find" by substituting "identification, location, and evaluation" in § 309.54(a)(4) which is more consistent with section 612(2)(C) of Part B of the Act.

Response. A change has been made. The Secretary agrees that the suggested wording is preferable.

Comment. Two commenters felt that the proposed regulations did not delineate the full range of options available to the Secretary for projects under this part, i.e., grants, contracts, or cooperative agreements.

Response. No change has been made. The Secretary intends to use the full range of funding options available under the statute. This part applies to the award of grants and cooperative agreements. Contract awards under section 624 of the Act are governed by 48 CFR (Federal Acquisition Regulations). Thus, the Secretary has not included this information in the text of the regulations. The Secretary will choose the appropriate award instruments under the statute and the Federal Grants and Cooperative Agreements Act (31 U.S.C. 631 *et seq.*).

Comment. One commenter observed that nowhere in the regulations were the time periods for demonstration and outreach grants specified. The commenter urged the funding of outreach projects beyond one year.

Response. No change has been made. The Secretary requires flexibility to determine the period of funding for new grants, based upon program needs and the availability of funds.

Comment. Two commenters expressed concern about the data collection activities required by the statute, as the law was felt to suggest a potentially cumbersome and burdensome system.

Response. A change has been made. Under section 623(b)(4)(C) of the Act, the Secretary must provide an annual report to Congress under section 618 of the Act that describes the status of special education and related services to handicapped children from birth through five years of age. The Secretary believes that information from grantees on this matter is essential to ensure accurate and reliable data. Therefore, the Secretary has included a provision in § 309.54(b) that requires each applicant, in its application, to give assurance that it will cooperate with the Secretary in this effort. The Secretary appreciates the commenters' concerns and will consult with appropriate organizations and agencies on the best way to collect this information. In addition, a notice of intent to collect data was recently published (49 FR 21979; May 24, 1984) to elicit comments on potential problems that must be considered in developing data collection procedures and forms to carry out these activities.

These regulations implement section 623 of the Act, as amended by Pub. L. 98–199, the Education of the Handicapped Act Amendments of 1983, and incorporate the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

A summary of the regulations follows.

(a) Subpart A—General

Section 309.1 describes the scope and purpose of the program.

Section 309.2 provides information on the parties eligible to receive a grant for the various types of projects under this program.

Section 309.3 lists the regulations that apply to this program, including Parts 74, 75, 77, 78, and 79 of EDGAR.

Section 309.4 provides definitions that apply to the program. It incorporates EDGAR definitions as well as definitions of "handicapped children," "parent," "related services," and "special education" as used in the Assistance to States for Education of Handicapped Children program (34 CFR Part 300).

(b) Subpart B—What Kinds of Demonstration and Outreach Projects May Be Supported Under This Part?

Section 309.10 describes the purposes of demonstration and outreach projects. The Secretary retains the distinction between these two types of projects contained in the current regulations. The Secretary believes that the two categories of awards are necessary to ensure both that experimental approaches are tried and that the results of successful experimental projects are disseminated to others.

(c) Subpart C—How Does One Apply for Demonstration or Outreach Projects?

Section 309.20 describes the application requirements for demonstration projects.

Section 309.21 describes the application requirements for outreach projects.

On the basis of program experience, it is the Secretary's view that the comprehensive information required by these sections is necessary to ensure that the most promising projects are selected.

(d) Subpart D—How Does the Secretary Make a Grant for a Demonstration or Outreach Project?

Section 309.30 describes how the Secretary selects priorities for funding.

Section 309.31 lists priorities for demonstration projects.

Section 309.32 lists priorities for outreach projects. The Secretary believes that the sections on priorities are necessary to ensure that the program addresses the most pressing needs as they change from year to year.

Section 309.33 identifies the criteria for selection of demonstration and outreach projects.

(e) Subpart E—What Conditions Must Be Met by a Demonstration or Outreach Grantee?

Section 309.40 lists conditions that must be met by demonstration and outreach project grantees.

(f) Subpart F—What Kinds of Early Childhood State Plan Projects May Be Supported Under This Part?

Section 309.50 describes the purpose of, and identifies those State agencies eligible to receive a grant under, this subpart. Section 309.50(b) describes the elements of a comprehensive delivery system of early education for handicapped children. The Secretary believes that a description is necessary to provide guidance to States and to ensure that appropriate special education and related services will be provided to handicapped children from birth through age five.

Section 309.51 describes the scope and purpose of Early Childhood State Planning Grants.

Section 309.52 describes the scope and purpose of Early Childhood State Development Grants.

Section 309.53 describes the scope and purpose of Early Childhood State Implementation Grants.

Sections 309.51—309.53 also describe the information that must be included in applications for Early Childhood State Plan projects. The Secretary believes that these provisions are necessary to provide a framework for State planning and to ensure that each participating State's early education delivery system is comprehensive.

Section 309.54 describes other requirements applicable to Early Childhood State Plan projects.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's specific plans and actions for this program.

Paperwork Reduction Act of 1980

The information collection requirements in these regulations (§ 309.21) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned an OMB control number. The control number appears as a citation at the end of this part. Information collection requirements contained in these regulations at § 309.54(b) will become effective after the Education Department's submission and OMB approval.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. To the extent that these regulations affect States and State agencies, they will not have an impact on small entities because States and State agencies are not considered small entities under the Regulatory Flexibility Act. The application requirements in the regulations and other conditions for program participation will not place undue burdens on small entities participating in the program or have a significant economic impact on these entities. The matching requirements for demonstration and outreach projects permit the maximum Federal contribution authorized by law.

Assessment of Educational Impact

In the notice of proposed rulemaking, published in the **Federal Register** on April 20, 1984, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 309

Education, Education of handicapped, Education—research, Grants program—education, Preschool, Reporting and recordkeeping requirements, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(20 U.S.C. 1423)

(Catalog of Federal Domestic Assistance Number 84.024; Handicapped Children's Early Education Program)

Dated: July 6, 1984.

T.H. Bell,

Secretary of Education.

The Secretary revises Parts 309 of Title 34 of the Code of Federal Regulations as follows:

PART 309—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

Subpart A—General

Sec.

309.1 What is the Handicapped Children's Early Education Program?

Sec.

309.2 Who is eligible to apply for funds under the Handicapped Children's Early Education Program?
309.3 What regulations apply to the Handicapped Children's Early Education Program?
309.4 What definitions apply to the Handicapped Children's Early Education Program?
309.5–309.9 [Reserved]

Subpart B—What Kinds of Demonstration and Outreach Projects May Be Supported Under this Part?

309.10 What types of demonstration and outreach projects does the Handicapped Children's Early Education Program support?
309.11–309.19 [Reserved]

Subpart C—How Does One Apply for Demonstration or Outreach Projects?

309.20 What must be included in applications for demonstration projects?
309.21 What are the application requirements for outreach projects?
309.22–309.29 [Reserved]

Subpart D—How Does the Secretary Make a Grant for a Demonstration or Outreach Project?

309.30 How does the Secretary select priorities for demonstration or outreach projects?
309.31 What are the priorities for demonstration projects?
309.32 What are the priorities for outreach projects?
309.33 What are the selection criteria for demonstration or outreach projects?
309.34 Are awards for demonstration or outreach projects geographically dispersed?
309.35–309.39 [Reserved]

Subpart E—What Conditions Must Be Met by Demonstration or Outreach Grantees?

309.40 What conditions must be met by demonstration or outreach grantees?
309.41–309–49 [Reserved]

Subpart F—What Kinds of Early Childhood State Plan Projects May Be Supported Under this Part?

309.50 General.
309.51 What is the Early Childhood State Planning Grant?
309.52 What is an Early Childhood State Development Grant?
309.53 What is an Early Childhood State Implementation Grant?
309–54 What are the other Early Childhood State Plan application requirements?
309.55–309.59 [Reserved]

Authority: Sec. 623 of the Education of the Handicapped Act (20 U.S.C. 1423), unless otherwise noted.

Subpart A—General

§ 309.1 What is the Handicapped Children's Early Education Program?

The purposes of this program are to—

(a) Assist eligible parties in developing and implementing experimental preschool and early education programs for children from birth through eight years of age; and

(b) Assist States in developing and implementing a comprehensive delivery system that provides special education and related services to handicapped children from birth through five years of age.

(20 U.S.C. 1423)

§ 309.2 Who is eligible to apply for funds under the Handicapped Children's Early Education Program?

Eligible parties for demonstration and outreach projects are listed in § 309.10(b). Eligible parties for Early Childhood State Plan projects are listed in § 309.50.

(20 U.S.C. 1423)

§ 309.3 What regulations apply to the Handicapped Children's Early Education Program?

The following regulations apply to assistance under this program:

(a) The regulations in this Part 309.

(b) The Education Department General Administrative Regulations (EDGAR) established in Title 34 of the Code of Federal Regulations in—

(1) Part 74 (Administration of Grants);

(2) Part 75 (Direct Grant Programs);

(3) Part 77 (Definitions);

(4) Part 78 (Education Appeal Board); and

(5) Part 79 (Intergovernmental Review of Department of Education Programs and Activities.

(20 U.S.C. 1423; 20 U.S.C. 3474(a))

§ 309.4 What definitions apply to the Handicapped Children's Early Education Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
EDGAR
Fiscal year
Grant
Local educational agency
Nonprofit
Nonpublic
Preschool
Private
Project
Public
Secretary
State
State educational agency

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR Part 300:

Handicapped children (§ 300.5)
Parent (§ 300.10)
Related services (§ 300.13)
Special education (§ 300.14)

(c) *Other definitions.*

"Act" means the Education of the Handicapped Act (20 U.,S.C. 1401 *et seq.).*

(20 U.S.C. 1423; 20 U.S.C. 3474(a))

§§ 309.5–309.9 [Reserved]

Subpart B—What Kinds of Demonstration and Outreach Projects May Be Supported Under This Part?

§ 309.10 What types of demonstration and outreach projects does the Handicapped Children's Early Education Program support?

(a) The Handicapped Children's Early Education Program supports experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age.

(1) *Demonstration projects.* These projects assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication.

(2) *Outreach projects.* These projects support the replication of established practices to assist other agencies and organizations in expanding and improving services to handicapped children.

(b) *Eligibility.* (1) *Demonstration projects.* Parties eligible to receive assistance for demonstration projects are public or nonprofit private agencies, organizations, or institutions.

(2) *Outreach projects.* Parties eligible to receive assistance for outreach projects are public or nonprofit private agencies, organizations, or institutions that—

(i) Have completed demonstration projects assisted under the Handicapped Children's Early Education program, or projects assisted with other Federal, State, local, private or nonprofit funding sources that have achieved effective results with children; and

(ii) Have continued the demonstration project program model with local, State, or other funding other than under this part.

(c) *Matching requirements.* Federal financial participation for projects assisted under this section may not exceed 90 percent of the total annual costs of development, operation, and evaluation of any project.

(20 U.S.C. 1423(a))

§§ 309.11-309.19 [Reserved]

Subpart C—How Does One Apply for Demonstration or Outreach Projects?

§ 309.20 What must be included in applications for demonstration projects?

(a) An applicant for a demonstration project under this part shall include in its application—

(1) Demographic information about the population to be served, including the handicapping conditions of the children;

(2) The criteria which will be used to determine whether a child is handicapped (as defined in 34 CFR 300.5) for the purpose of participating in the project;

(3) The curriculum design;

(4) A description of the services, including related services, to be made available to the participating children;

(5) A description of the procedures for assessing the progress of the participating children;

(6) A description of the provisions for parent and family participation;

(7) A description of the provisions for training project personnel, parents, and caretakers;

(8) A description of proposed activities to disseminate and to promote the adoption of the program model by other agencies;

(9) The plans for evaluation of the project's effectiveness;

(10) The plans for continuation of the program from sources other than this part; and

(11) An assurance that provisions will be made for coordination with State and local educational agencies, and appropriate public and private health and social service agencies, in order to—

(i) Inform those agencies of the nature and purposes of the assisted project's program;

(ii) Provide opportunities for the project staff to coordinate their activities with the staff of those agencies;

(iii) Use available services in order to provide a comprehensive program which avoids duplication of effort;

(iv) Facilitate the dissemination of knowledge about the program;

(v) Develop mechanisms for future adoption or adaptation of program components;

(vi) Relate the program to State and local planning;

(vii) Provide liaison between early childhood programs and local school programs for children progressing from one to the other; and

(viii) Encourage continued active parental participation in the educational progress of handicapped children.

(b) Each applicant for a demonstration project shall include the information under paragraph (a) of this section in the description of the program conducted at each demonstration site.

(20 U.S.C. 1423(a))

§ 309.21 What are the application requirements for outreach projects?

An applicant for an outreach project under this part shall include in its application—

(a) A list of the agencies to be served through the outreach activities;

(b) For each agency listed, a description that includes—

(i) The nature and scope of the agency's current services;

(ii) How those services will be affected through outreach activities;

(iii) The anticipated impact of outreach assistance; and

(iv) Evidence that the agency is interested in cooperating with the applicant's outreach activities;

(c) A description of the model program upon which their demonstration project is based, including evidence of the effectiveness of the model program with children, parents, or other recipients of the model program's services;

(d) An assurance that services provided to handicapped children under the applicant's demonstration project will be continued by the applicant and supported by funds other than funds made available under this part;

(e) A statement of—

(i) The amount and sources of funding for continued project support (cash and in-kind);

(ii) The number of children to be involved;

(iii) The number of personnel to be involved; and

(iv) The location for the delivery of services;

(f) Evidence of the need and demand for the proposed outreach activities;

(g) Evidence of the applicant's experience in working with other agencies in activities related to early education of handicapped children; and

(h) A description and samples of any early educational materials to be used in the proposed project.

(20 U.S.C. 1423(a))

(Information collection requirements have been approved under OMB control No. 1820-0028)

§§ 309.22-309.29 [Reserved]

Subpart D—How Does the Secretary Make a Grant for a Demonstration or Outreach Project?

§ 309.30 How does the Secretary select priorities for demonstration or outreach projects?

(a) The Secretary may select annually one or more priorities or combinations of priorities from among those listed in §§ 309.31 and 309.32. The Secretary advises the public of these priorities through an application notice published in the Federal Register.

(b) If an application contains activities which address both a priority and a nonpriority area, the Secretary considers for support only those activities that address the priority.

(20 U.S.C. 1423(a))

§ 309.31 What are the priorities for demonstration projects?

In selecting demonstration projects, the Secretary may give priority to applications for innovative, experimental projects that—

(a) Serve children with specific handicapping conditions for whom the Secretary determines that demonstration models are lacking;

(b) Provide services in the least restrictive environment which facilitate entry into the regular school system;

(c) Provides services in underserved, rural, or urban areas, especially projects that serve ethnic and linguistic minority group handicapped children and migrant handicapped children;

(d) Serve newborns, infants, and other children under three years of age;

(e) Serve economically disadvantaged handicapped children;

(f) Develop models for the delivery of comprehensive services that may be incorporated into an Early Childhood State Plan under Subpart F of this part;

(g) Utilize technological devices and systems for educating handicapped children; or

(h) Ensure the use of validated procedures for assessment of handicapped children and evaluation of early childhood programs.

(20 U.S.C. 1423(a))

§ 309.32 What are the priorities for outreach projects?

In selecting outreach projects, the Secretary may give priority to applications for projects that—

(a) Assist other agencies and organizations in the development and implementation of comprehensive delivery systems for handicapped children that may be incorporated into

Early Childhood State Plans under Subpart F of this part;

(b) Provide quality training and other assistance and general support services to regions, States, or geographical areas where handicapped children from birth through five years of age are unserved or underserved, especially projects that serve ethnic and linguistic minority group handicapped children, economically disadvantaged, and migrant handicapped children;

(c) Stimulate the provision of services and provide training in rural areas; or

(d) Stimulate the provision of services and provide training based upon recent research findings and information from the fields of special education, child development, pediatrics, and other areas appropriate to early childhood education.

(20 U.S.C. 1423(a))

§ 309.33 What are the selection criteria for demonstration and outreach projects?

The Secretary uses the weighted criteria in this section to evaluate applications for new awards for demonstration and outreach projects. The maximum score for all the criteria is 100 points.

(a) *Plan of operation.* (40 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (15 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(See 34 CFR 75.590 *Evaluation by the grantee*)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1423(a))

§ 309.34 Are awards for demonstration and outreach projects geographically dispersed?

As much as is feasible, the Secretary, in addition to using the selection criteria in § 309.33, geographically disperses awards for demonstration and outreach projects throughout the Nation in urban as well as rural areas.

(20 U.S.C. 1423(a)(3))

§§ 309.35–309.39 [Reserved]

Subpart E—What Conditions Must Be Met by Demonstration or Outreach Grantees?

§ 309.40 What conditions must be met by demonstration or outreach grantees?

(a) Each grantee conducting a demonstration or outreach project must—

(1) Ensure that the activities and services provided by the project facilitate the early intellectual, emotional, physical, mental, social, and language development of handicapped children;

(2) Coordinate with similar programs in the schools operated or supported by State or local educational agencies of the community or communities to be served;

(3) Acquaint the community to be served by the project with the problems and potentialities of handicapped children;

(4) Ensure the use of validated procedures for assessment and evaluation of early childhood programs; and

(5) Actively involve parents of handicapped children in the project.

(b) No grantee may collect fees or other charges from the parents of any child participating in activities assisted under this part.

(20 U.S.C. 1423(a))

§§ 309.41–309.49 [Reserved]

Subpart F—What Kinds of Early Childhood State Plan Projects May Be Supported Under This Part?

§ 309.50 General.

(a) The Secretary makes a grant to each State, through the State educational agency or other responsible State agency, to assist the State in planning, developing, or implementing an Early Childhood State Plan for a comprehensive delivery system of special education and related services to handicapped children from birth through five years of age. The Secretary makes one of the grants described in §§ 309.51–309.53 to any State which

submits an application that meets the requirements of this subpart.

(b) A comprehensive service delivery system includes—

(1) A statewide system for identifying and locating, as early as possible, children who are handicapped or at risk of being handicapped. This includes the prenatal period if there is evidence that a child will be born handicapped;

(2) Comprehensive and continuing assessment and diagnosis of children who are identified as handicapped or at risk of being handicapped;

(3) Special education and related services appropriate to each handicapped child's developmental level and handicapping condition;

(4) A continuum of alternative placements to meet the individual needs of handicapped children for special education and related services;

(5) Involvement of parents in the planning, development, and implementation of the education and services provided to their handicapped children;

(6) A personnel development program to ensure appropriately trained instructional and supportive staff;

(7) Coordination of the activities of educational, health, social services, and other agencies to ensure effective use of available services and to relate service delivery programs to State and local planning;

(8) Information concerning the needs of handicapped children and the availability of services; and

(9) Ongoing evaluation of the effectiveness of the services and programs provided to handicapped children and others involved in their education and care.

(c) A joint application may be submitted by two or more agencies if they have shared or concurrent responsibility for serving handicapped children from birth through five years of age (*see* 34 CFR 75.127–75.129).

(d) As used in this subpart, a "responsible State agency" is the State educational agency or other organizational unit that has direct or delegated authority under State law or policy to provide special education and related services to handicapped children from birth through five years of age.

(20 U.S.C. 1423(b))

§ 309.51 What is an Early Childhood State Planning Grant?

(a) *Purpose.* An Early Childhood State Planning Grant is awarded to assess the educational and related services needed by handicapped children within the State from birth through five years of age and to establish a procedure and design for the development of an Early Childhood State Plan.

(b) *Application contents.* An applicant for a State Planning Grant shall include in its application—

(1) A copy of the needs assessment on which the Early Childhood State Plan will be based, or a description of the needs assessment to be undertaken as a basis for the plan; and

(2) A statement of the project's goals and objectives, the preliminary plans and procedures for designing a plan, and the activities to be implemented, in order to—

(i) Identify and develop interagency collaborative efforts at State and local levels;

(ii) Develop and maintain systems to enhance management and administration for the provision of services to handicapped children from birth through five years;

(iii) Establish and maintain standards, including regulations, legislation, and policy, for making available services to handicapped children from birth through five years;

(iv) Assist in the planning, development, and implementation of training for families, caretakers, and professionals at the State and local levels;

(v) Identify possible financial resources for the identification, evaluation, placement, and provision of services for handicapped children from birth through five years;

(vi) Provide statewide awareness of services for handicapped children; and

(vii) Establish evaluation criteria for assessing the effectiveness of the planning activities.

(20 U.S.C. 1423(b)(2)(A))

§ 309.52 What is an Early Childhood State Development Grant?

(a) *Purpose.* An Early Childhood State Development Grant is awarded to a State which has successfully completed planning activities to—

(1) Develop a comprehensive State plan; and

(2) Gain approval of the plan from the State Board of Education, the Commissioner of Education, or other designated official of the appropriate State agency.

(b) *Application contents.* An applicant for the State Development Grant shall include in its application—

(1) A description of the completed planning activities (such as those described in § 309.51) which demonstrates the applicant's readiness for a development grant;

(2) A summary of existing State rules, policies, and procedures for the education of handicapped children from birth through five years of age;

(3) A statement of the overall goals of the project. These goals shall include measurable objectives for service expansion or program improvement in specified program areas which the State plans to achieve during a specified period of time;

(4) Provisions for parent participation in activities to be carried out by the project; and

(5) Current demographic information on handicapped children from birth through five years of age.

(20 U.S.C. 1423(b)(2)(B))

§ 309.53 What is an Early Childhood State Implementation Grant?

(a) *Purpose.* An Early Childhood State Implementation Grant is awarded for the purpose of implementing and evaluating the Early Childhood State Plan approved by the State Board of Education, the Commissioner of Education, or other designated official of the appropriate State agency.

(b) *Application contents.* An applicant for a State Implementation Grant must include in its application—

(1) A copy of the approved Early Childhood State Plan;

(2) Current demographic information on handicapped children from birth through five years of age;

(3) A statement of the goals and objectives for implementing the activities to be supported under the project;

(4) A summary of the existing State rules, policies, and procedures for the education of handicapped children from birth through five years of age, including a summary of any significant changes during the development of the Early Childhood State Plan; and

(5) Provisions for parent participation in activities to be carried out under the project.

(20 U.S.C. 1423(b)(2)(C))

§ 309.54 What are the other Early Childhood State Plan application requirements?

(a) In addition to the information required in §§ 309.51–309.53, each applicant for a grant under this subpart must include in its application assurances and evidence that—

(1) The State agency receiving the grant will coordinate with other appropriate State agencies (including the State educational agency if the grantee is some other State agency) in carrying out the grant;

(2) If a State agency other than the State educational agency applies for and receives a grant, it will coordinate with

and involve the State educational agency in the submission of the application and in carrying out the grant;

(3) The Early Childhood State Plan will address the special education and related services needs of all handicapped children from birth through five years of age, with special emphasis on those children who have not been identified or who are not receiving appropriate services; and

(4) The Early Childhood State plan will be closely coordinated with indentification, location, and evaluation activities under section 612(2)(C) of the Education of the Handicapped Act and with preschool incentive grant activities under section 619 of the Act and 34 CFR Part 301.

(b) The State agency receiving the grant shall cooperate with the Secretary in meeting the Secretary's responsibility under section 623(b)(4)(C) of the Act in providing a description of the status of special education and related services to handicapped children from birth through five years of age in the State for inclusion in the annual report under section 618 of the Act.

(20 U.S.C. 1423(b)(3); 1423(b)(4)(C))

§§ 309.55–309.59 [Reserved]

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