

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.200]

Graduate Assistance in Areas of National Need Program; Inviting Applications for New Awards for Fiscal Year (FY) 1994

Purpose of Program: This program provides fellowships through academic departments and programs of institutions of higher education to assist graduate students of superior ability who demonstrate financial need. The purpose of the program is to sustain and enhance the capacity for teaching and research in areas of national need.

Eligible Applicants: An academic department of an institution of higher education that meets the requirements in 34 CFR 648.2.

Deadline for Transmittal of Applications: February 14, 1994.

Deadline for Intergovernmental Review: April 15, 1994.

Applications Available: December 30, 1993.

Available Funds: \$18,386,000 for new awards.

Estimated Range of Awards: \$100,000–\$750,000.

Estimated Average Size of Awards: \$190,000.

Estimated Number of Awards: 80.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 77, 79, 82, 85, and 86; and (b) The regulations in 34 CFR part 648 as published elsewhere in this issue of the Federal Register.

SUPPLEMENTARY INFORMATION: The Graduate Assistance in Areas of National Need Program furthers National Education Goal 4, that U.S. students will be first in the world in science and mathematics achievement, and Goal 5, that every adult American

will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The program furthers both goals by providing fellowship assistance to increase the number of teachers with a substantive background in mathematics and science, as well as increase the number of graduate students who complete degrees in mathematics, science, and engineering. The program also furthers these goals by providing fellowship assistance to graduate students so that these students can provide an example for American youth on the importance of continued learning throughout an individual's life.

Institutional Payment

The Secretary estimates that the institutional payment for academic year 1994–1995 will be \$9,245, which represents a 2.7 percent adjustment of the academic year 1993–1994 payment based on the Department of Labor's projection in April 1993 of the Consumer Price Index for 1993. The Secretary will adjust the institutional payment prior to the issuance of grant awards based on the Department of Labor's projection in December 1993 of the Consumer Price Index for 1993.

Priorities**Absolute Priorities**

Under 34 CFR 75.105(c)(3) and 34 CFR 648.3, the Secretary gives an absolute preference to applications that meet one or more of the following priorities. The Secretary funds under this competition only applications that meet one or more of these absolute priorities:

Applications that propose to provide fellowships in one or more of the following areas of national need: Biology, Chemistry, Engineering, Foreign Languages, Mathematics, and Physics.

Invitational Priority

Within the absolute priority, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Applications that propose to provide fellowships in Foreign Languages other than French, German, Italian and Spanish.

For Applications or Information Contact

Celeste B. Felious, U.S. Department of Education, Division of Higher Education Incentive Programs, 400 Maryland Avenue, SW., room 3022, ROB-3, Washington, DC 20202-5251. Telephone: (202) 708-9419. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260-9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 11341-1134q-1.

Dated: September 10, 1993.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

[FR Doc. 93-30616 Filed 12-15-93; 8:45 am]

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Federal Register

**Thursday
December 16, 1993**

Part VIII

**Department of
Education**

34 CFR Part 648

**Graduate Assistance in Areas of National
Need; Rule**

DEPARTMENT OF EDUCATION

34 CFR Part 648

RIN 1840-AB66

Graduate Assistance in Areas of National Need

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary implements regulations for the Graduate Assistance in Areas of National Need (GAANN) program. The program originally was enacted in the Education Amendments of 1980 and was amended by the Higher Education Amendments of 1992. These regulations incorporate statutory requirements and provide rules for applying for and spending Federal funds under this program.

EFFECTIVE DATE: These regulations take effect 45 days after publication in the *Federal Register* or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Carolyn Proctor-Kelly. Telephone: (202) 708-9419. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These regulations implement the GAANN program authorized under title IX, part D, of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1992 (Pub. L. 102-325). This program provides fellowships through academic departments of institutions of higher education to assist graduate students of superior ability who demonstrate financial need. The purpose of the program is to sustain and enhance the capacity for teaching and research in areas of national need.

The GAANN program furthers National Education Goal 4, that U.S. students will be first in the world in science and mathematics achievement, and Goal 5, that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The program furthers both goals by providing fellowship assistance to increase the number of teachers with a substantive background

in mathematics and science, as well as increase the number of graduate students who complete degrees in mathematics, science, and engineering. The program also furthers these goals by providing fellowship assistance to graduate students so that these students can provide an example for American youth on the importance of continued learning throughout an individual's life.

On June 16, 1993, the Secretary published a notice of proposed rulemaking for this program in the *Federal Register* (58 FR 33224). In this notice, the Secretary solicited public comment on the proposed regulations.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 13 parties submitted comments on the proposed regulations. An analysis of the comments follows.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Other substantive issues are discussed under the section of the regulations to which they pertain.

Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Areas of National Need—(§ 648.3/Appendix)

Comments: One commenter suggested that the Secretary limit the list of areas of national need in the appendix to those that are the most likely to be designated for support. The commenter believes that by listing every conceivable discipline in which one might receive a doctoral degree, the proposed regulations go beyond the areas originally envisioned as "national needs."

Another commenter suggested that the Secretary maintain funding of disciplines that have traditionally been funded under the program. The commenter believes that this will allow the Secretary to conduct longitudinal studies to determine if program funding has produced a greater number of U.S. doctorates within these fields. The commenter also fears that many institutions may not be able to continue projects without continued program funding. Finally, this commenter suggested that, before adding new areas of national need, the Secretary consult with graduate deans at institutions nationwide to determine where there are critical needs for teaching and research.

Discussion: The Secretary agrees that the academic areas listed in the

appendix should be limited to those that are the most likely to be selected as areas of national need. The Secretary has limited the academic areas on the list to those disciplines and subdisciplines that Departmental studies project will have a significant shortfall at the Ph.D level in the year 2005, or are listed in section 943(b) of the HEA.

The Secretary has not yet determined which disciplines will be designated as areas of national need. The Secretary does not intend, however, automatically to fund disciplines that have traditionally been funded under the program. Pursuant to section 943(b) of the HEA, the Secretary will consult with the National Science Foundation, the National Academy of Sciences, the National Endowment for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations about areas to be designated as areas of national need. After these consultations, the Secretary will designate areas of national need for the fiscal year 1995 competition, and annually thereafter.

Finally, the Secretary does not intend to consult directly with graduate deans at institutions nationwide regarding which areas will be designated as areas of national need. Rather, pursuant to section 943(b) of the HEA, the Secretary plans to consult with such nonprofit organizations as the Association of American Universities and the Council of Graduate Schools which represent the interests of graduate deans of institutions.

Changes: The Secretary has changed the title of the appendix from "Area of National Need Priorities" to "Academic Areas" and limited the list in the appendix to the academic areas that are the most likely to be selected as areas of national need.

Definition of Academic Year—(§ 648.9(b))

Comments: One commenter suggested changing the definition of academic year to mean the 9-10 month period commencing with the fall instructional term of the institution, rather than 12 months as proposed by the Secretary. The commenter suggested that the current \$10,000 stipend for a 12-month period is unreasonably low compared to other fellowship stipends due to the fact that a fellow's financial need is determined over a 12-month, rather than a 9-10 month, period.

Discussion: The Secretary does not agree with the change suggested by this commenter. The Secretary believes that many institutions have 12-month academic programs. In addition, the

Secretary believes a fellow's financial need—and therefore, the amount of the stipend received by a fellow—should be calculated over an entire year in order to account for summer income earned by a fellow.

Changes: None.

Selection Criteria—(\$ 648.31)

Rankings of Academic Departments as Indicator of Quality of Academic Program—(\$ 648.31(c)(4))

Comments: Several commenters questioned the Secretary's use of rankings of academic departments among similar graduate academic programs in § 648.31(c)(4) of the proposed regulations as a means of evaluating the quality of graduate academic programs. First, commenters believe that these ranking systems are often based on faulty data. Second, commenters believe that the data contained within these rankings may be obsolete since they are not based on regular and recent evaluations. Third, commenters believe that these rankings wrongly favor large, long-established programs, which may not be the best type of institutions to fulfill the purposes of the program. Finally, many commenters contend that no national rankings are given to certain programs.

One commenter suggested placing the burden on the applicant to demonstrate the quality of their programs. This commenter would have academic departments submit data concerning faculty publications and citations, numbers of doctorates produced, and employment records of recent graduates as a demonstration of the quality of their academic program. Another commenter suggested that the Secretary request information from expert reviewers or an institution's recent record in training doctorate students. This commenter also suggested that the Secretary publish the list of applying departments and solicit comment on their quality. Finally, another commenter suggested deleting § 648.31(c)(4) and relying instead on the other measures in § 648.31(c)(1)–(3) of the proposed regulations in determining the quality of an academic department.

Discussion: The Secretary agrees that § 648.31(c)(4) of the proposed regulations should be revised to permit an applicant to provide any evidence that it deems appropriate to demonstrate the quality of its academic program. Examples of such evidence are rankings of an academic program among similar type programs, data concerning faculty publications and citations, numbers and ethnic/gender diversity of doctorates produced, and employment records of graduates.

Changes: The Secretary revises § 648.31(c)(4) of the regulations to provide that, in reviewing the quality of an academic department, the Secretary will review "[a]ny other evidence the applicant deems appropriate to demonstrate the quality of its academic program." The Secretary has deleted § 648.31(c)(4) of the proposed regulations which provided that the quality of an applicant's academic program will be determined, in part, by "[t]he ranking of the academic department among similar graduate academic programs."

Additions or Deletions of Selection Criteria

Comments: Commenters suggested adding and deleting certain considerations in the selection criteria. One commenter suggested that past performance be a key factor in determining which academic departments receive funding. Another commenter suggested that the qualifications of the faculty should be deleted as a measure of the quality of an academic department. This commenter does not believe that the quality of an academic department's faculty is indicative of the quality of the academic department. Lastly, one commenter suggested that the Secretary add to the selection criteria a criterion to evaluate how an academic department will use its institutional payment.

Discussion: The Secretary does not believe an applicant should be awarded extra points for accomplishing the goals it established for a past grant since a grantee is expected to accomplish these goals. The Secretary does agree that the fact that an applicant failed to accomplish its stated goals on a past grant should be taken into account in selecting applicants for new awards. The Secretary, however, does not believe that a change in the regulations is necessary. Section 75.217(d)(3) of title 34 of the CFR, which is made applicable to this program under § 648.48(a)(3) of the regulations, authorizes the Secretary to consider the applicant's use of funds under a previous award under this program in determining the order in which applications will be selected for awards.

The Secretary believes that the qualifications of an academic department's faculty are indicative of the quality of an academic department. One of the best learning experiences for a student is through interaction with qualified faculty. Therefore, the quality of an academic department's faculty will greatly determine the strength of an academic department.

Finally, the Secretary does not agree that the selection criteria should be used to evaluate how an academic department will use its institutional payment since these uses are already specified in § 648.62. The Secretary does not believe a department should receive points for demonstrating how it will comply with these rules.

Changes: None.

Weighting of Selection Criteria

Comments: One commenter suggested that the Secretary accord more weight to the recruitment plan and the institution's effectiveness in enrolling and nurturing high quality students from traditionally underrepresented backgrounds, and less weight to the quality of the academic graduate program. The commenter believes that this change is necessary to reflect the emphasis on outreach to traditionally underrepresented backgrounds in the Higher Education Amendments of 1992.

Discussion: The Secretary believes that an institution's recruitment plan and effectiveness in enrolling and nurturing high quality students from traditionally underrepresented backgrounds are essential to the program. Section 942(b)(1) of the HEA, however, provides that the "principal criterion" for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Pursuant to this statutory mandate, the Secretary has accorded the most weight under the selection criteria to the quality of a graduate program.

Changes: None.

Selection of Fellows—(\$ 648.40)

Comments: Several commenters suggested that the Secretary allow permanent residents to be eligible for fellowships in doctoral degree programs that will lead to an academic career. These commenters believe that these students are likely to stay in the United States and that their participation in the program will strengthen the program by increasing the number of qualified candidates.

One commenter stated that the distinction between eligibility based on whether a fellow is pursuing an academic or a nonacademic career is impossible to implement. This commenter stated that most students enrolled in doctoral studies have no way of reliably predicting whether they will in fact end up in an academic or nonacademic career.

One commenter questioned the meaning of § 648.40(d), which provides that an individual who satisfies the general criteria for eligibility in

§ 648.40(a) and either § 648.40 (b) or (c), but who attends an institution that does not offer the highest degree available in their course of study, is eligible for a fellowship if the individual plans subsequently to attend an institution that offers this degree. This commenter suggested that this requirement conflicts with the nature of the program, which awards grants to academic programs or departments. The commenter questioned how an institution could receive funding to provide support to a group of fellows if it did not offer a doctoral degree in the field in which these fellows are enrolled.

Discussion: The Secretary agrees that the same citizenship requirements should apply to all individuals applying for fellowships. The Secretary has deleted proposed § 648.40(b) which required that individuals enrolled in doctoral degree programs that will lead to an academic career be citizens of the United States.

The Secretary agrees with the comment that a student is unable to determine whether he or she will ultimately end up in an academic career. Section 648.40(c) of the regulations, however, does not require that a student actually end up in an academic career—only that he or she certify that he or she is pursuing this career.

Finally, an academic department need not offer the terminal degree in a discipline to receive a grant under this program. Section 942(a)(1) of the HEA provides that grants may be awarded to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree. Therefore, there is no inconsistency in the regulations.

Changes: The Secretary has revised proposed § 648.40 to apply the same residency requirements to all individuals applying for fellowships. The Secretary will no longer require that individuals enrolled in doctoral degree programs leading to academic careers be citizens of the United States. The Secretary has added a new paragraph to § 648.40(a)(8) requiring that all eligible individuals be (1) United States citizens or nationals; (2) permanent residents of the United States; (3) in the United States for other than a temporary purpose and who intend to become permanent residents; or (4) permanent residents of the Trust Territory of the Pacific Islands. The Secretary also has deleted proposed § 648.40 (b) and (c).

Amount of a Stipend—(§ 648.51)

Comments: One commenter suggested that the amount of a stipend awarded to

a student should be able to exceed a fellow's demonstrated level of financial need. The commenter believes that limiting the amount of a stipend in this manner lessens the attractiveness of GAANN fellowships to more talented students. This commenter also believes that this limitation causes accounting problems for institutions that promise the National Science Foundation (NSF) amount to an incoming student, but that later can provide only an amount equal to the fellow's financial need.

Another commenter suggested that monies received by a fellow from a partial teaching assistantship or another stipend should not be included in calculating a fellow's financial need for the purposes of determining the amount of a fellow's stipend.

Several commenters suggested changing § 648.51 of the proposed regulations. Two commenters suggested that all fellows should receive stipend amounts equalling the NSF amount (adjusted as necessary so as not to exceed the fellow's financial need), regardless of whether they received their fellowship prior to or after academic year 1993–94. Another commenter suggested that all fellows should receive the level of support provided under the law prior to the 1992 Amendments, which was the fellow's financial need or \$10,000, whichever was less, not the NSF amount.

Discussion: The Secretary is not authorized to provide a stipend amount that exceeds a fellow's demonstrated level of financial need. Section 945(b) of the HEA clearly provides that the level of stipend support must equal the support provided by NSF graduate fellowships, "except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need" (emphasis added).

Section 648.9 of the regulations defines financial need to mean the fellow's financial need as determined under Title IV, Part F, of the HEA for the period of the fellow's enrollment in the approved field of study for which the fellowship was awarded. Title IV, Part F, of the HEA sets forth a detailed formula for determining financial need.

As a general rule, stipends awarded under other financial assistance programs and monies received from teaching assistantships would be taken into account in calculating financial need under the title IV, part F, needs analysis. Section 471 of the HEA provides that the amount of financial need is equal to the cost of attendance, minus the expected family contribution, minus the estimated financial assistance not received under title IV of the HEA.

The estimated financial assistance not received under title IV is defined in section 480(j) of the HEA to include "scholarships, grants, loans or other assistance known to the institution at the time the determination of the student's need is made * * *." The Secretary believes that stipends awarded under other programs would be treated as other financial assistance in the calculation of a student's financial need. Similarly, if monies received from teaching assistantships are received as a form of financial assistance, they would be included in calculating a student's financial need as estimated financial assistance not received under title IV of the HEA. Monies received from teaching assistantships that are not treated as a form of financial assistance would be counted as part of a student's adjusted gross income. A student's adjusted gross income is a major component in the calculation of the student's expected family contribution.

Finally, the Secretary does not agree with the suggested changes to § 648.51. Section 945(b) provides that, in the case of stipends that are first received in academic year 1993–94, the amount of the stipend is set at a level equal to NSF fellowships (adjusted as necessary so as not to exceed a fellow's demonstrated level of need). Prior to the reauthorization, the amount of stipends received by fellows equalled \$10,000 or the amount of the fellow's financial need, whichever was less. This amount was not changed in the reauthorization. The Secretary believes that since the amount of stipends that were first received prior to academic year 1993–94 was not changed in the reauthorization, fellows who first received stipends prior to this time must continue to receive the amounts provided under the law as it existed prior to the reauthorization.

Changes: None.

Supervised Training of Fellows—(§§ 648.9(b) and 648.61)

Comments: One commenter suggested clarification of § 648.61(a), which provides that the institution shall provide the opportunity for fellows to provide instruction at the graduate or undergraduate level under the guidance and direction of faculty in the academic department. The commenter inquired whether the fellow is required to accept this "opportunity." The commenter also inquired whether this opportunity must coincide with the year in which the fellowship is awarded.

Discussion: Fellows are required to accept the opportunity to provide instruction at the graduate or undergraduate level. The Secretary has

revised the definition of supervised training in § 648.9(b) and § 648.61 to more closely parallel the language of section 944(b)(8) of the statute which clearly indicates that an institution must provide this activity as part of the fellowship.

A fellow must provide instruction at the graduate or undergraduate level within the length of time necessary for the fellow to complete the course of graduate study or five years, whichever is less. The institution need not provide this opportunity within the first year in which the fellowship is awarded.

Changes: The Secretary has revised the definition of supervised training in § 648.9(b) to mean training provided to fellows under the guidance and direction of faculty in the academic department. In addition, the Secretary has revised § 648.61 to provide that the institution shall provide to fellows at least one academic year of supervised training in instruction at the graduate or undergraduate level at the schedule of at least a one-half-time teaching assistant.

Use of the Institutional Payment— (§ 648.62)

Comments: Several commenters suggested that the Secretary permit an academic department to use the institutional payment to pay for a fellow's travel, books, software or other research supplies and equipment. Another commenter suggested that part of the institutional payment should be allowed to be set aside for directors of fellowship programs to advertise, recruit, and provide extra-classroom educational experiences for fellows.

Discussion: The Secretary has revised § 648.62 of the proposed regulations by adding a new § 648.62(b) which provides that, after payment of a fellow's tuition and fees, the institutional payment may be applied against educational expenses of a fellow that are not covered by tuition and fees and are related to the academic program in which the fellow is enrolled. These expenses include the following: (1) Costs for rental or purchase of any books, materials, or supplies required of students in the same course of study; (2) costs of computer hardware, project specific software, and other equipment prorated by the length of the student's fellowship over the reasonable life of the equipment; (3) membership fees of professional associations; (4) travel and per diem to professional association meetings and registration fees; (5) international travel, per diem, and registration fees to participate in educational activities; (6) expenses incurred in research; and (7) costs of reproducing and binding of educational

products. Under § 648.62(b), an institution could use the institutional payment to cover a fellow's travel, books, software, or other research supplies, and equipment if these expenses are related to the academic program in which a fellow is enrolled. In addition, part of the institutional payment could be set aside to provide extra-classroom experiences for fellows if these experiences are related to the academic program in which the fellow is enrolled. An institution could not set aside a part of the institutional payment, however, to advertise and recruit for its fellowship program since these would be operational expenses rather than direct fellowship support. The Secretary believes that operational expenses are not sufficiently related to the academic program in which the fellow is enrolled to warrant support. This policy applies to all fellowship programs administered by the Department.

Changes: The Secretary has revised § 648.62 by adding § 648.62(b) which provides that the institutional payment may be applied against expenses that are not covered as tuition and fees and are related to the academic program in which the fellow is enrolled.

Institutional Matching Contribution— (§ 648.63)

Comments: Several commenters suggested that the institutional matching contribution include the institution's payment of tuition and fees. Several commenters also suggested that an institution be allowed to use its institutional matching contribution to supplement a fellow's stipend. These commenters contend that encouraging institutions to supplement a fellow's stipend will encourage participation in the program by making it more competitive with other fellowship programs.

One commenter requested clarification of § 648.63(b), which provides that an institution may not use its institutional matching contribution to fund fellowships that were funded by the institution prior to the award of the grant. This commenter inquired whether fellowships acquired by an institution through competitive processes before the award of the grant must be included in the institutional matching contribution.

Discussion: The Secretary has revised § 648.63(a)(2) to provide that the institutional matching contribution may be used to pay for tuition, fees, and the costs listed in § 648.62(b). The Secretary has also revised § 648.63(a)(4) of the proposed regulations which provided that the institutional matching contribution may be used to supplement

the stipend received by a fellow. Many institutions promise students stipends that exceed their financial need as a way of enticing students to enroll at their institution. The Secretary does not believe that the institutional matching contribution should be used for this purpose. The Secretary believes that this program is need-based, and therefore any monies provided to a fellow by an institution as part of its institutional matching contribution may not exceed a fellow's financial need.

An institution may not use its institutional matching contribution, under § 648.63(b) of the regulations, to fund fellowships that were funded by the institution prior to the award of the grant. The Secretary believes that this rule applies regardless of how a particular type of fellowship was obtained by the institution. The Secretary believes that the goal of this program is to fund additional fellowships, not to duplicate already existing fellowships.

Changes: The Secretary has revised § 648.63(a)(2) to provide that the institutional matching contribution may be used to pay for tuition, fees, and the costs listed in § 648.62(b). The Secretary has also revised § 648.63(a)(4) to provide that an institution may supplement the stipend received by a fellow under § 648.51 in an amount not to exceed a fellow's financial need.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Education Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of 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 648

College and universities, Grant program—education, Reporting and recordkeeping requirements, Fellowships.

Dated: December 7, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.200—Graduate Assistance in Areas of National Need program)

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 648 to read as follows:

PART 648—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

Subpart A—General

Sec.

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- 648.2 Who is eligible for a grant?
- 648.3 What activities may the Secretary fund?
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- 648.20 How does an institution of higher education apply for a grant?

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- 648.70 What conditions must be met by a fellow?

Appendix to Part 648—Academic Areas

Authority: 20 U.S.C. 1134, 1134l–1134q-1, unless otherwise noted.

Subpart A—General

§ 648.1 What is the Graduate Assistance in Areas of National Need program?

The Graduate Assistance in Areas of National Need program provides fellowships through academic departments of institutions of higher education to assist graduate students of superior ability who demonstrate financial need. The purpose of the program is to sustain and enhance the capacity for teaching and research in areas of national need.

(Authority: 20 U.S.C. 1134l–1134n)

§ 648.2 Who is eligible for a grant?

(a) The Secretary awards grants to the following:

- (1) Any academic department of an institution of higher education that provides a course of study that—
 - (i) Leads to a graduate degree in an area of national need; and
 - (ii) Has been in existence for at least four years at the time of an application for a grant under this part.
- (2) An academic department of an institution of higher education that—

- (i) Satisfies the requirements of paragraph (a)(1) of this section; and
- (ii) Submits a joint application with one or more eligible nondegree-granting institutions that have formal arrangements for the support of doctoral dissertation research with one or more degree-granting institutions.

(b) A formal arrangement under paragraph (a)(2)(ii) of this section is a written agreement between a degree-granting institution and an eligible nondegree-granting institution whereby the degree-granting institution accepts students from the eligible nondegree-granting institution as doctoral degree candidates with the intention of awarding these students doctorates in an area of national need.

(c) The Secretary does not award a grant under this part for study at a school or department of divinity.

(Authority: 20 U.S.C. 1134, 1134m, 1134n)

§ 648.3 What activities may the Secretary fund?

(a) The Secretary awards grants to institutions of higher education to fund fellowships in one or more areas of national need.

(b)(1) For the purposes of this part, the Secretary designates areas of national need from the academic areas listed in the appendix to this part or from the resulting inter-disciplines.

(2) The Secretary announces these areas of national need in a notice published in the Federal Register.

(Authority: 20 U.S.C. 1134l–1134n)

§ 648.4 What is included in the grant?

Each grant awarded by the Secretary consists of the following:

(a) The stipends paid by the Secretary through the institution of higher education to fellows. The stipend provides an allowance to a fellow for the fellow's (and his or her dependents') subsistence and other expenses.

(b) The institutional payments paid by the Secretary to the institution of higher education to be applied against each fellow's tuition, fees, and the costs listed in § 648.62(b).

(Authority: 20 U.S.C. 1134p, 1134q)

§ 648.5 What is the amount of a grant?

(a) The amount of a grant to an academic department may not be less than \$100,000 and may not be more than \$750,000 in a fiscal year.

(b) In any fiscal year, no academic department may receive more than \$750,000 as an aggregate total of new and continuing grants.

(Authority: 20 U.S.C. 1134m)

§ 648.6 What is the duration of a grant?

The duration of a grant awarded under this part is a maximum of three annual budget periods during a three-year (36-month) project period.

(Authority: 20 U.S.C. 1134m)

§ 648.7 What is the institutional matching contribution?

An institution shall provide, from non-Federal funds, an institutional matching contribution equal to at least 25 percent of the amount of the grant received under this part, for the uses indicated in § 648.63.

(Authority: 20 U.S.C. 1134o, 1134p)

§ 648.8 What regulations apply?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher

Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 82 (New Restrictions on Lobbying).

(6) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part.

(Authority: 20 U.S.C. 1134l, 1134m)

§ 648.9 What definitions apply?

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

Applicant
Application
Award
Budget
Budget period
Department
EDGAR
Equipment
Grant
Nonprofit
Project period
Secretary
Supplies

(b) *Other definitions.* The following definitions also apply to this part:

Academic department means any department, program, unit, or any other administrative subdivision of an institution of higher education that—

(i) Directly administers or supervises post-baccalaureate instruction in a specific discipline; and

(ii) Has the authority to award academic course credit acceptable to meet degree requirements at an institution of higher education.

Academic field means an area of study in an academic department within an institution of higher education other than a school or department of divinity.

Academic year means the 12-month period commencing with the fall instructional term of the institution.

Application period means the period in which the Secretary solicits applications for this program.

Discipline means a branch of instruction or learning.

Eligible non-degree granting institution means any institution that—

(i) Conducts post-baccalaureate academic programs of study but does not award doctoral degrees in an area of national need;

(ii) Is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under section 501(a) of the Code;

(iii) Is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(iv) Is not a private foundation;

(v) Has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(vi) Has necessary research resources not otherwise readily available in the institutions in which students are enrolled.

Fees mean non-refundable charges paid by a graduate student for services, materials, and supplies that are not included within the tuition charged by the institution in which the student is enrolled.

Fellow means a recipient of a fellowship under this part.

Fellowship means an award made by an institution of higher education to an individual for graduate study under this part at the institution of higher education.

Financial need means the fellow's financial need as determined under title IV, part F, of the HEA for the period of the fellow's enrollment in the approved academic field of study for which the fellowship was awarded.

General operational overhead means non-instructional expenses incurred by an academic department in the normal administration and conduct of its academic program, including the costs of supervision, recruitment, capital outlay, debt service, indirect costs, or any other costs not included in the determination of tuition and non-refundable fee charges.

Graduate student means an individual enrolled in a program of post-baccalaureate study at an institution of higher education.

Graduate study means any program of postbaccalaureate study at an institution of higher education.

HEA means the Higher Education Act of 1965, as amended.

Highest possible degree available means a doctorate in an academic field or a master's degree, professional degree, or other post-baccalaureate degree if a doctorate is not available in that academic field.

Institution of higher education (Institution) means an institution of higher education, other than a school or department of divinity, as defined in section 1201(a) of the HEA.

Inter-discipline means a course of study that involves academic fields in two or more disciplines.

Minority means Alaskan Native, American Indian, Asian-American, Black (African-American), Hispanic American, Native Hawaiian, or Pacific Islander.

Multi-disciplinary application means an application that requests fellowships for more than a single academic department in areas of national need designated as priorities by the Secretary under this part.

Project means the activities necessary to assist, whether from grant funds or institutional resources, fellows in the successful completion of their designated educational programs.

Satisfactory progress means that a fellow meets or exceeds the institution's criteria and standards established for a graduate student's continued status as an applicant for the graduate degree in the academic field for which the fellowship was awarded.

School or department of divinity means an institution, or an academic department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter into some other religious vocation or to prepare them to teach theological subjects.

Students from traditionally underrepresented backgrounds mean women and minorities who traditionally are underrepresented in areas of national need as designated by the Secretary.

Supervised training means training provided to fellows under the guidance and direction of faculty in the academic department.

Tuition means the charge for instruction by the institution of higher education in which the fellow is enrolled.

Underrepresented in areas of national need means proportionate representation as measured by degree recipients, that is less than the proportionate representation in the general population, as indicated by—

(i) The most current edition of the Department's *Digest of Educational Statistics*;

(ii) The National Research Council's *Doctorate Recipients from United States Universities*;

(iii) Other standard statistical references, as announced annually in the Federal Register notice inviting applications for new awards under this program; or

(iv) As documented by national survey data submitted to and accepted by the Secretary on a case-by-case basis.

(Authority: 20 U.S.C. 1134l-1134q)

Subpart B—How Does an Institution of Higher Education Apply for a Grant?

§ 648.20 How does an institution of higher education apply for a grant?

(a) To apply for a grant under this part, an institution of higher education shall submit an application that responds to the appropriate selection criteria in § 648.31.

(b) In addition, an application for a grant must—

(1) Describe the current academic program for which the grant is sought;

(2) Request a specific number of fellowships to be awarded on a full-time basis for the academic year covered under the grant in each academic field included in the application;

(3) Set forth policies and procedures to ensure that in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds;

(4) Set forth policies and procedures to assure that in making fellowship awards under this part the institution will make awards to individuals who satisfy the requirements of § 648.40;

(5) Set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that otherwise would be made available for the purposes of this part and, in no case, to supplant those funds;

(6) Provide assurances that the institution will provide the institutional matching contribution described in § 648.7;

(7) Provide assurances that, in the event that funds made available to the academic department under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department and the student, the academic department will endeavor, from any funds available to it, to fulfill the commitment to the student;

(8) Provide that the institution will comply with the requirements in subpart F; and

(9) Provide assurances that the academic department will provide at least one year of supervised training in instruction to students receiving fellowships under this program.

(c) In any application period, an academic department may not submit more than one application for new awards.

(Approved by the Office of Management and Budget under control number 1840-0604)

(Authority: 20 U.S.C. 1134o)

Subpart C—How Does the Secretary Make an Award?

§ 648.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 648.31.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1134m, 1134o)

§ 648.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Meeting the purposes of the program.* (7 points) The Secretary reviews each application to determine how well the project will meet the purposes of the program, including the extent to which—

(1) The applicant's general and specific objectives for the project are realistic and measurable;

(2) The applicant's objectives for the project seek to sustain and enhance the capacity for teaching and research at the institution and at State, regional, or national levels;

(3) The applicant's objectives seek to institute policies and procedures to ensure the enrollment of talented graduate students from traditionally underrepresented backgrounds; and

(4) The applicant's objectives seek to institute policies and procedures to ensure that it will award fellowships to individuals who satisfy the requirements of § 648.40.

(b) *Extent of need for the project.* (5 points) The Secretary considers the extent to which a grant under the program is needed by the academic department by considering—

(1) How the applicant identified the problems that form the specific needs of the project;

(2) The specific problems to be resolved by successful realization of the goals and objectives of the project; and

(3) How increasing the number of fellowships will meet the specific and general objectives of the project.

(c) *Quality of the graduate academic program.* (25 points) The Secretary reviews each application to determine the quality of the current graduate academic program for which project funding is sought, including—

(1) The course offerings and academic requirements for the graduate program;

(2) The qualifications of the faculty, including education, research interest, publications, teaching ability, and accessibility to graduate students;

(3) The focus and capacity for research; and

(4) Any other evidence the applicant deems appropriate to demonstrate the quality of its academic program.

(d) *Quality of the supervised teaching experience.* (5 points) The Secretary reviews each application to determine the quality of the teaching experience the applicant plans to provide fellows under this program, including the extent to which the project—

(1) Provides each fellow with the required supervised training in instruction;

(2) Provides adequate instruction on effective teaching techniques;

(3) Provides extensive supervision of each fellow's teaching performance; and

(4) Provides adequate and appropriate evaluation of the fellow's teaching performance.

(e) *Recruitment plan.* (10 points) The Secretary reviews each application to determine the quality of the applicant's recruitment plan, including—

(1) How the applicant plans to identify, recruit, and retain students from traditionally underrepresented backgrounds in the academic program for which fellowships are sought;

(2) How the applicant plans to identify eligible students for fellowships;

(3) The past success of the academic department in enrolling talented graduate students from traditionally underrepresented backgrounds; and

(4) The past success of the academic department in enrolling talented graduate students for its academic program.

(f) *Project administration.* (7 points) The Secretary reviews the quality of the proposed project administration, including—

(1) How the applicant will select fellows, including how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, religion, gender, age, or disabling condition;

(2) How the applicant proposes to monitor whether a fellow is making satisfactory progress toward the degree for which the fellowship has been awarded;

(3) How the applicant proposes to identify and meet the academic needs of fellows;

(4) How the applicant proposes to maintain enrollment of graduate students from traditionally underrepresented backgrounds; and

(5) The extent to which the policies and procedures the applicant proposes to institute for administering the project are likely to ensure efficient and

effective project implementation, including assistance to and oversight of the project director.

(g) *Institutional commitment.* (16 points) The Secretary reviews each application for evidence that—

(1) The applicant will provide, from any funds available to it, sufficient funds to support the financial needs of the fellows if the funds made available under the program are insufficient;

(2) The institution's social and academic environment is supportive of the academic success of students from traditionally underrepresented backgrounds on the applicant's campus;

(3) Students receiving fellowships under this program will receive stipend support for the time necessary to complete their courses of study, but in no case longer than 5 years; and

(4) The applicant demonstrates a financial commitment, including the nature and amount of the institutional matching contribution, and other institutional commitments that are likely to ensure the continuation of project activities for a significant period of time following the period in which the project receives Federal financial assistance.

(h) *Quality of key personnel.* (5 points) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(1) The qualifications of the project director;

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

(3) The time commitment of key personnel, including the project director, to the project; and

(4) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected without regard to race, color, national origin, religion, gender, age, or disabling condition, except pursuant to a lawful affirmative action plan.

(i) *Budget.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The applicant shows a clear understanding of the acceptable uses of program funds; and

(2) The costs of the project are reasonable in relation to the objectives of the project.

(j) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Relate to the specific goals and measurable objectives of the project;

(2) Assess the effect of the project on the students receiving fellowships

under this program, including the effect on persons of different racial and ethnic backgrounds, genders, and ages, and on persons with disabilities who are served by the project;

(3) List both process and product evaluation questions for each project activity and outcome, including those of the management plan;

(4) Describe both the process and product evaluation measures for each project activity and outcome;

(5) Describe the data collection procedures, instruments, and schedules for effective data collection;

(6) Describe how the applicant will analyze and report the data so that it can make adjustments and improvements on a regular basis; and

(7) Include a time-line chart that relates key evaluation processes and benchmarks to other project component processes and benchmarks.

(k) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant makes available to graduate students receiving fellowships under this program, including facilities, equipment, and supplies.

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(Authority: 20 U.S.C. 1134m-1134p)

§ 648.32 What additional factors does the Secretary consider?

(a) *Continuation awards.* (1) Before funding new applications, the Secretary gives preference to grantees requesting their second or third year of funding.

(2) If appropriations for this program are insufficient to fund all continuation grantees for the second and third years at the approved funding level, the Secretary prorates the available funds, if any, among the continuation grantees and, if necessary, awards continuation grants of less than \$100,000.

(b) *Equitable distribution.* In awarding grants, the Secretary will, consistent with an allocation of awards based on the quality of competing applications, ensure the following:

(1) An equitable geographic distribution of grants to eligible applicant institutions of higher education.

(2) An equitable distribution of grants to eligible applicant public and eligible applicant private institutions of higher education.

(Authority: 20 U.S.C. 1134m-1134p)

§ 648.33 What priorities and absolute preferences does the Secretary establish?

(a) For each application period, the Secretary establishes as an area of national need and gives absolute

preference to one or more of the general disciplines and sub-disciplines listed as priorities in the appendix to this part or the resulting interdisciplines.

(b) The Secretary announces the absolute preferences in a notice published in the Federal Register.

(Authority: 20 U.S.C. 1134l-1134n)

Subpart D—How Are Fellows Selected?

§ 648.40 How does an academic department select fellows?

(a) In selecting individuals to receive fellowships, an academic department shall consider only individuals who—

(1) Are currently enrolled as graduate students, have been accepted at the grantee institution, or are enrolled or accepted as graduate students at an eligible nondegree-granting institution;

(2) Are of superior ability;

(3) Have an excellent academic record;

(4) Have financial need;

(5) Are planning to pursue the highest possible degree available in their course of study;

(6) Are planning a career in teaching or research;

(7) Are not ineligible to receive assistance under 34 CFR 75.60; and

(8)(i) Are United States citizens or nationals;

(ii) Are permanent residents of the United States;

(iii) Are in the United States for other than a temporary purpose and intend to become permanent residents; or

(iv) Are permanent residents of the Trust Territory of the Pacific Islands.

(b) An individual who satisfies the eligibility criteria in paragraph (a) of this section, but who attends an institution that does not offer the highest possible degree available in the individual's course of study, is eligible for a fellowship if the individual plans to attend subsequently an institution that offers this degree.

(Authority: 20 U.S.C. 1134l, 1134m, 1134o)

§ 648.41 How does an individual apply for a fellowship?

An individual shall apply directly to an academic department of an institution of higher education that has received a grant.

(Authority: 20 U.S.C. 1134l, 1134p)

Subpart E—How Does the Secretary Distribute Funds?

§ 648.50 What are the Secretary's payment procedures?

(a) The Secretary awards to the institution of higher education a stipend and an institutional payment for each

individual awarded a fellowship under this part.

(b) If an academic department of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary reallocates the amounts not used to academic departments of other institutions of higher education for use in the academic year following the date of the reallocation.

(Authority: 20 U.S.C. 1134n, 1134p, 1134q)

§ 648.51 What is the amount of a stipend?

(a) For a fellowship initially awarded for an academic year prior to the academic year 1993-94, the institution shall pay the fellow a stipend in an amount that equals the fellow's financial need or \$10,000, whichever is less.

(b) For a fellowship initially awarded for the academic year 1993-94, or any succeeding academic year, the institution shall pay the fellow a stipend at a level of support equal to that provided by the National Science Foundation graduate fellowships, except that this amount must be adjusted as necessary so as not to exceed the fellow's demonstrated level of financial need. The Secretary announces the amount of the stipend in a notice published in the Federal Register.

(Authority: 20 U.S.C. 1134p)

§ 648.52 What is the amount of the institutional payment?

For academic year 1993-1994, the amount of the institutional payment received by an institution of higher education for each student awarded a fellowship at the institution is \$9,000. Thereafter, the Secretary adjusts the amount of the institutional payment annually in accordance with inflation as determined by the United States Department of Labor's Consumer Price Index for the previous calendar year. The Secretary announces the amount of the institutional payment in a notice published in the Federal Register.

(Authority: 20 U.S.C. 1134q)

Subpart F—What Are the Administrative Responsibilities of the Institution?

§ 648.60 When does an academic department make a commitment to a fellow to provide stipend support?

(a) An academic department makes a commitment to a fellow at any point in his or her graduate study for the length of time necessary for the fellow to complete the course of graduate study, but in no case longer than five years.

(b) An academic department shall not make a commitment under paragraph (a) of this section to provide stipend support unless the academic department has determined that adequate funds are available to fulfill the commitment either from funds received or anticipated under this part or from institutional funds.

(Authority: U.S.C. 1134p)

§ 648.61 How must the academic department supervise the training of fellows?

The institution shall provide to fellows at least one academic year of supervised training in instruction at the graduate or undergraduate level at the schedule of at least one-half-time teaching assistant.

(Authority: 20 U.S.C. 1134o)

§ 648.62 How can the institutional payment be used?

(a) The institutional payment must be first applied against a fellow's tuition and fees.

(b) After payment of a fellow's tuition and fees, the institutional payment may be applied against educational expenses of the fellow that are not covered by tuition and fees and are related to the academic program in which the fellow is enrolled. These expenses include the following:

(1) Costs for rental or purchase of any books, materials, or supplies required of students in the same course of study.

(2) Costs of computer hardware, project specific software, and other equipment prorated by the length of the student's fellowship over the reasonable life of the equipment.

(3) Membership fees of professional associations.

(4) Travel and per diem to professional association meetings and registration fees.

(5) International travel, per diem, and registration fees to participate in educational activities.

(6) Expenses incurred in research.

(7) Costs of reproducing and binding of educational products.

(c) The institutional payment must supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of the program and, in no case, to supplant institutional funds currently available for fellowships.

(Authority: 20 U.S.C. 1134o-1134q)

§ 648.63 How can the institutional matching contribution be used?

(a) The institutional matching contribution may be used to—

(1) Provide additional fellowships to graduate students who are not already

receiving fellowships under this part and who satisfy the requirements of § 648.40;

(2) Pay for tuition, fees, and the costs listed in § 648.62(b);

(3) Pay for costs of providing a fellow's instruction that are not included in the tuition or fees paid to the institution in which the fellow is enrolled; and

(4) Supplement the stipend received by a fellow under § 648.51 in an amount not to exceed a fellow's financial need.

(b) An institution may not use its institutional matching contribution to fund fellowships that were funded by the institution prior to the award of the grant.

(Authority: 20 U.S.C. 1134l, 1134o, 1134p)

§ 648.64 What are unallowable costs?

Neither grant funds nor the institutional matching funds may be used to pay for general operational overhead costs of the academic department.

(Authority: 20 U.S.C. 1134m, 1134q)

§ 648.65 How does the institution of higher education disburse and return funds?

(a) An institution that receives a grant shall disburse a stipend to a fellow in accordance with its regular payment schedule, but shall not make less than one payment per academic term.

(b) If a fellow withdraws from an institution before completion of an academic term, the institution may award the fellowship to another individual who satisfies the requirements in § 648.40.

(c) If a fellowship is vacated or discontinued for any period of time, the institution shall return a prorated portion of the institutional payment and unexpended stipend funds to the Secretary, unless the Secretary authorizes the use of those funds for a subsequent project period. The institution shall return the prorated portion of the institutional payment and unexpended stipend funds at a time and in a manner determined by the Secretary.

(d) If a fellow withdraws from an institution before the completion of the academic term for which he or she received a stipend installment, the fellow shall return a prorated portion of the stipend installment to the institution at a time and in a manner determined by the Secretary.

(Authority: 20 U.S.C. 1134p, 1134q)

§ 648.66 What records and reports are required from the institution?

(a) An institution of higher education that receives a grant shall provide to the Secretary, prior to the receipt of grant

funds for disbursement to a fellow, a certification that the fellow is enrolled in, is making satisfactory progress in, and is devoting essentially full time to study in the academic field for which the grant was made.

(b) An institution of higher education that receives a grant shall keep records necessary to establish—

(1) That each student receiving a fellowship satisfies the eligibility requirements in § 648.40;

(2) The time and amount of all disbursements and return of stipend payments;

(3) The appropriate use of the institutional payment; and

(4) That assurances, policies, and procedures provided in its application have been satisfied.

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(Authority: 20 U.S.C. 1134m-1134q)

Subpart G—What Conditions Must Be Met by a Fellow After an Award?

§ 648.70 What conditions must be met by a fellow?

To continue to be eligible for a fellowship, a fellow must—

(a) Maintain satisfactory progress in the program for which the fellowship was awarded;

(b) Devote essentially full time to study or research in the academic field in which the fellowship was awarded; and

(c) Not engage in gainful employment, except on a part-time basis in teaching, research, or similar activities determined by the academic department to be in support of the fellow's progress toward a degree.

(Authority: 20 U.S.C. 1134p)

Appendix to Part 648—Academic Areas

The Secretary may give an absolute preference to any of the academic areas listed as disciplines or subdisciplines below, or the resulting inter-disciplines. The list was derived from the Classification of Instructional Programs (CIP) developed by the Office of Educational Research and Improvement of the U.S. Department of Education and includes the instructional programs that may constitute courses of studies toward graduate degrees. The code number to the left of each discipline and subdiscipline is the Department's identification code for that particular type of instructional program.

05. Area, Ethnic, and Cultural Studies

05.01 Area Studies

05.02 Ethnic and Cultural Studies

11. Computer and Information Sciences

11.01 Computer and Information Sciences, General

11.02 Computer Programming

11.04 Information Sciences and Systems

11.05 Computer Systems Analysis

11.07 Computer Science

13. Education

13.01 Education, General

13.02 Bilingual/Bicultural Education

13.03 Curriculum and Instruction

13.04 Education Administration and Supervision

13.05 Educational/Instructional Media Design

13.06 Educational Evaluation, Research, and Statistics

13.07 International and Comparative Education

13.08 Educational Psychology

13.09 Social and Philosophical Foundations of Education

13.10 Special Education

13.11 Student Counseling and Personnel Services

13.12 General Teacher Education

13.13 Teacher Education, Specific Academic, and Vocational Programs

13.14 Teaching English as a Second Language/Foreign Language

14. Engineering

14.01 Engineering, General

14.02 Aerospace, Aeronautical, and Astronautical Engineering

14.03 Agricultural Engineering

14.04 Architectural Engineering

14.05 Bioengineering and Biomedical Engineering

14.06 Ceramic Sciences and Engineering

14.07 Chemical Engineering

14.08 Civil Engineering

14.09 Computer Engineering

14.10 Electrical, Electronic, and Communications Engineering

14.11 Engineering Mechanics

14.12 Engineering Physics

14.13 Engineering Science

14.14 Environmental/Environmental Health Engineering

14.15 Geological Engineering

14.16 Geophysical Engineering

14.17 Industrial/Manufacturing Engineering

14.18 Materials Engineering

14.19 Mechanical Engineering

14.20 Metallurgical Engineering

14.21 Mining and Mineral Engineering

14.22 Naval Architecture and Marine Engineering

14.23 Nuclear Engineering

14.24 Ocean Engineering

14.25 Petroleum Engineering

14.27 Systems Engineering

14.28 Textile Sciences and Engineering

14.29 Engineering Design

14.30 Engineering/Industrial Management

14.31 Materials Science

14.32 Polymer/Plastics Engineering

16. Foreign Languages

16.01 Foreign Languages and Literatures

16.03 East and Southeast Asian Languages and Literatures

16.04 East European Languages and Literatures

16.05 Germanic Languages and Literatures

16.06 Greek Languages and Literatures

16.07 South Asian Languages and Literatures

16.09 Romance Languages and Literatures

16.11 Middle Eastern Languages and Literatures

16.12 Classical and Ancient Near Eastern Languages and Literatures

22. Law and Legal Studies

22.01 Law and Legal Studies

25. Library Science

25.01 Library Science/Librarianship

25.03 Library Assistant

26. Biological Sciences/Life Sciences

26.01 Biology, General

26.02 Biochemistry and Biophysics

26.03 Botany

26.04 Cell and Molecular Biology

26.05 Microbiology/Bacteriology

26.06 Miscellaneous Biological Specializations

26.07 Zoology

27. Mathematics

27.01 Mathematics

27.03 Applied Mathematics

27.05 Mathematic Statistics

40. Physical Sciences

40.01 Physical Sciences, General

40.02 Astronomy

40.03 Astrophysics

40.04 Atmospheric Sciences and Meteorology

40.05 Chemistry

40.06 Geological and Related Sciences

40.07 Miscellaneous Physical Sciences

40.08 Physics

42. Psychology

42.01 Psychology

42.02 Clinical Psychology

42.03 Cognitive Psychology and Psycholinguistics

42.04 Community Psychology

42.06 Counseling Psychology

42.07 Developmental and Child Psychology

42.08 Experimental Psychology

42.09 Industrial and Organizational Psychology

42.11 Physiological Psychology/ Psychobiology

42.16 Social Psychology

42.17 School Psychology

50. Visual and Performing Arts

50.01 Visual and Performing Arts

50.02 Crafts, Folk Art, and Artisanry

50.03 Dance

50.04 Design and Applied Arts

50.05 Dramatic/Theater Arts and Stagecraft

50.06 Film/Video and Photographic Arts

50.07 Fine Arts and Art Studies

50.09 Music

51. Health Professions and Related Sciences

51.01 Chiropractic (D.C., D.C.M.)

51.02 Communication Disorders Sciences and Services

51.03 Community Health Services

51.04 Dentistry (D.D.S., D.M.D.)

51.05 Dental Clinical Sciences/Graduate Dentistry (M.S., Ph.D.)

51.06 Dental Services

51.07 Health and Medical Administrative Services

51.08 Health and Medical Assistants

51.09 Health and Medical Diagnostic and Treatment Services

51.10 Health and Medical Laboratory Technologies/Technicians

51.11 Health and Medical Preparatory Programs

51.12 Medicine (M.D.)

51.13 Medical Basic Science

51.14 Medical Clinical Services (M.S., Ph.D.)

51.15 Mental Health Services
51.16 Nursing
51.17 Optometry (O.D.)
51.18 Ophthalmic/Optometric Services
51.19 Osteopathic Medicine (D.O.)

51.20 Pharmacy
51.21 Podiatry (D.P.M., D.P., Pod.D.)
51.22 Public Health
51.23 Rehabilitation/Therapeutic Services
51.24 Veterinary Medicine (D.V.M.)

51.25 Veterinary Clinical Services
51.27 Miscellaneous Health Professions
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Part IX

Department of Justice

Bureau of Prisons

28 CFR Part 544

Control, Custody, Care, Treatment and
Instruction of Inmates; Inmate Recreation
Programs; Final Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Recreation Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on Inmate Recreation Programs. This amendment broadens the scope of the programs offered to inmates and establishes the overall wellness needs of the inmate as a program goal. This amendment also clarifies existing provisions relating to the disposition of completed hobbycraft items and utilization of hobbycraft facilities. This amendment is intended to increase constructive opportunities for inmates, and reduce personal stress and institution tension.

EFFECTIVE DATE: December 16, 1993.

ADDRESSES: Office of General Counsel, Bureau of Prisons, Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Inmate Recreation Programs. A final rule on this subject was published in the *Federal Register* on September 12, 1986 (51 FR 32602). A summary of the changes in this amendment follows.

In § 544.30, the list of recreation programs offered by the Bureau is broadened by the addition of "games" and reference is made to wellness activities.

In § 544.31(a), the definition of "Leisure activities" is amended to include "games", and to include religious activities, psychological services and education classes when they are used specifically to encourage knowledge, skills and attitudes related to leisure activity involvement. In paragraph (b), the phrase " * * and occur at a scheduled time and place" is added to clarify the definition of "Organized activities". In paragraph (d), "ceramics" is added to the definition of "Hobbycraft activities". A new paragraph (e) is added containing a definition of "Inmate wellness program activities."

In § 544.32, the list of goals is amended to include overall wellness needs of inmates. The phrase "and desire" is removed in conformance with

revisions to § 544.81 published elsewhere in today's *Federal Register*.

Section 544.33 is revised to designate the Supervisor of Education as being responsible for ensuring that X-rated movies are not shown when an institution has a program to show movies and to remove limitations on regular movie rentals.

Section 544.34 is redesignated and revised as § 544.35, and a new § 544.34 is added to allow for inmate running events.

In new § 544.35(b) the word "completed" is added to show when the marking of art or hobbycraft items must be provided. Revised paragraph (c)(1) is clarified to indicate the quantity of items that may be given to authorized visitors is to be determined by the Warden. This provision, which is intended to ensure orderly operations in the visiting room, was already in the Bureau's implementing guidelines, and consequently represents no change in procedures. Paragraph (d)(1) is clarified by specifying the Warden may restrict for reasons of security and housekeeping the size and quantity of all products made in the art and hobbycraft program. Existing regulations on Inmate Personal Property contain limitations on storage space (see 28 CFR 553.11). As revised, paragraph (d)(1) recognizes that approved storage space for inmate personal property effectively limits the size of an individual hobbycraft item or the size of an accumulation of hobbycraft items. In paragraph (d)(2) the word "items" is added to clearly define the intent of this section. Paragraph (d)(4) is amended to indicate that appropriate hobbycraft activities shall be encouraged in inmate living areas, and that completed hobbycraft items must be removed from the living area when completed unless they are approved as personal property. Paragraph (d)(6) is amended to indicate that rotation of hobbycraft participants to allow for maximum utilization of resources is another way the Warden may set limits on the amount of time an inmate may use a hobbycraft facility. Paragraph (d)(7) is added to indicate that disciplinary action may be taken against inmates found with unauthorized hobbycraft materials in their possession. This action may include removal of the inmate from the hobbycraft program. It is the Bureau's longstanding policy that inmates possessing unauthorized material are subject to disciplinary action (see 28 CFR 541.13 and 553.13). This amendment merely reiterates existing Bureau policy.

Because these amendments merely clarify existing policy or are less

restrictive in nature, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 544

Prisoners.

Kathleen M. Hawk,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), subchapter C of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

1. The authority citation for 28 CFR part 544 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart D, consisting of §§ 544.30 through 544.34, is revised to consist of §§ 544.30 through 544.35 as follows:

Subpart D—Inmate Recreation Programs

Sec.	
544.30	Purpose and scope.
544.31	Definitions.
544.32	Goals.
544.33	Movies.
544.34	Inmate running events.
544.35	Art and hobbycraft.

Subpart D—Inmate Recreation Programs

§ 544.30 Purpose and scope.

The Bureau of Prisons encourages inmates to make constructive use of leisure time and offers movies, games, sports, social activities, arts and

hobbycrafts, wellness and other group and individual activities.

§ 544.31 Definitions.

(a) *Leisure activities* are a wide range of activities in which inmates may participate when not performing assigned duties. Leisure activities include participation in organized and informal games, sports, physical fitness, table games, hobbycrafts, music programs, intramural activities, social and cultural organizations, movies, and stage shows. Religious activities, psychological services, and education classes are not included within this definition, except when they are used specifically to encourage knowledge, skills, and attitudes related to leisure activity involvement.

(b) *Organized activities* are those activities accounted for by registration or roster of individual participants, and occur at a scheduled time and place.

(c) *Art work* includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal).

(d) *Hobbycraft activities* include ceramics, leatherwork, models, clay, mosaics, crochet, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

(e) *Inmate wellness program activities* include screening, assessments, goal setting, fitness/nutrition prescriptions and counseling.

§ 544.32 Goals.

The Warden is to ensure, to the extent possible, that leisure activities are provided to meet social, physical, psychological, and overall wellness needs of inmates.

(a) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age, or sex difference, or handicap considerations, and to enhance the potential for post-release involvement.

(b) Leisure activities are designed to ensure that an inmate with the need has the opportunity to complete one or more activities (see 28 CFR 544.81).

§ 544.33 Movies.

If there is a program to show movies, the Supervisor of Education shall ensure that X-rated movies are not shown.

§ 544.34 Inmate running events.

Running events will ordinarily not exceed 10 kilometers or 6.2 miles. Appropriate medical staff and fluid supplies (e.g., water) should be available for all inmate running events.

§ 544.35 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

- (1) The institution art program (if one exists);
- (2) The commissary sales unit;
- (3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or
- (4) Other sources approved by the Warden.

(b) Each inmate shall identify completed art or hobbycraft products by showing the inmate's name and register number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles must be disposed of in one of the following ways:

- (1) Upon approval of the Warden, by giving the item to an authorized visitor. The quantity of items will be determined by the Warden.
- (2) By mailing the item to a verified relative or approved visitor at the inmate's expense.
- (3) By selling, through an institution art and hobbycraft sales program, if one exists, after the institution price committee has determined the sale price.
- (4) Other methods established by the Warden.

(d) Restrictions: Art and hobbycraft programs are intended for the personal enjoyment of an inmate and as an opportunity to learn a new leisure skill. They are not for the mass production of art and hobbycraft items by artists or to provide a means of supplementing an inmate's income.

(1) The Warden may restrict, for reasons of security and housekeeping, the size and quantity of all products made in the art and hobbycraft program. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft items or materials.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) Appropriate hobbycraft activities shall be encouraged in the inmate living areas. However, the Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in provided personal property containers. Exceptions may be made for

such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed unless they are approved as personal property.

(5) The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.

(6) Where space and equipment are limited and demand is high, the Warden may set limits on the amount of time an inmate may use a hobbycraft facility, e.g., the Warden may limit an inmate's use of any workshop or classroom to six months to make room for new students. Hobbycraft participants may be rotated to allow for maximum utilization of the resources.

(7) Disciplinary action may be taken against inmates found with unauthorized hobbycraft materials in their possession. This action may include the removal of the inmate from the hobbycraft program.

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28 CFR Part 544

Control, Custody, Care, Treatment and Instruction of Inmates; Education, Training and Leisure-Time Program Standards

AGENCY: Bureau of Prisons, Justice.
ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its regulations on Education, Training and Leisure-Time Program Standards. This amendment makes changes to the development, delivery and documentation of this program. This amendment also consolidates regulations on Social Education Guidelines and Education Program Certificates into the revised final rule on Education, Training and Leisure-Time Program Standards. The purpose of this amendment is to improve the efficient operation of the Bureau's education and recreation programs.

EFFECTIVE DATE: December 16, 1993.

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