

(b) Inmates who have been determined (on the basis of formal diagnostic assessment) to have a documented emotional, mental, or physical individual impediment to learning shall not be required to complete the literacy program beyond those achievement levels indicated as realistic by the formal diagnostic assessment.

(c) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in, or to complete, the literacy program.

§ 544.72 Incentives.

The Warden shall establish a system of incentives to encourage an inmate to obtain a GED credential.

§ 544.73 Program participation.

(a) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's literacy program. Initially, staff shall meet with the inmate for the purpose of enrolling the inmate in the literacy program. Subsequently, staff shall formally interview each inmate involved in the literacy program when necessary for the purpose of determining a progress assignment. Staff shall place documentation of these interviews in the inmate's education file.

(b)(1) For the purposes of 18 U.S.C. 3624, an inmate subject to the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) or the Prison Litigation Reform Act of 1995 (PLRA) shall be deemed to be making satisfactory progress toward earning a GED credential or high school diploma unless and until the inmate receives a progress assignment confirming that:

(i) The inmate refuses to enroll in the literacy program;

(ii) The inmate has been found to have committed a prohibited act that occurred in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program; or

(iii) The inmate has withdrawn from the literacy program.

(2) When an inmate subject to VCCLEA or PLRA receives a progress assignment indicating that the inmate is not making satisfactory progress,

the assignment shall be changed to indicate satisfactory progress only after the inmate is currently and continuously enrolled in a literacy program for a minimum of 240 instructional hours. Any further withdrawal or finding that the inmate has committed a prohibited act in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program shall result in a progress assignment indicating that the inmate is again not making satisfactory progress (see paragraphs (b)(1)(ii) and (iii) of this section).

(c) At the end of 240 instructional hours, excluding sick time, furloughs, or other absences from scheduled classes, the unit team during scheduled program review sessions shall meet with the inmate to encourage continued participation in the literacy program until the inmate earns a GED credential or high school diploma. At these meetings, the inmate may elect not to continue in the literacy program, and no disciplinary action will be taken. The inmate may not discontinue this program when participation is mandated by statute.

§ 544.74 Work assignment limitations.

These limitations on work assignment appointment and promotion apply to all inmates, including those exempted from required participation in the literacy program by § 544.71.

(a) *Appointment.* (1) An inmate who does not meet the literacy requirement may be assigned to a grade 4 position contingent upon the inmate's continued enrollment in the literacy program.

(2) An inmate ordinarily must show prior attainment of a GED credential or high school diploma in order to be considered for a commissary work assignment above minimum pay level, an institution work assignment above grade 4 compensation, or an industrial work assignment above grade four or in a non-graded incentive pay position.

(3) If labor force needs require, an inmate who does not meet the literacy requirement may be assigned to an industrial non-graded incentive pay position if the inmate is simultaneously enrolled in a literacy or related program. Withdrawal from the literacy

program shall result in termination of the assignment. Local Federal Prison Industry (FPI) management may elect to retain the reassigned inmate in an hourly rated grade 4 position.

(b) *Promotion.* An inmate ordinarily must show prior attainment of a GED credential or high school diploma to be promoted above the minimum pay level or grade in a commissary work assignment, an institutional work assignment, or an industrial work assignment. An inmate already in an assignment above the minimum pay grade who had met prior literacy requirements when approved for promotion is eligible for further promotion under the prior standard. Such inmate, however, must meet the current standard if, due to demotion based upon a poor performance appraisal, he or she needs to reapply for a promotion.

(c) *Exceptions.* The Warden may, for good cause, exempt inmates on a case-by-case basis, from the literacy requirements for work assignment appointment and promotion. Staff shall document such exemption in the inmate's education file and central file.

§ 544.75 Disciplinary action.

As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate lacking a GED credential or high school diploma if that inmate refuses to enroll in, and to complete, the mandatory 240 instructional hours of the literacy program.

Subpart I—Education, Training and Leisure-Time Program Standards

SOURCE: 58 FR 65852, Dec. 16, 1993, unless otherwise noted.

§ 544.80 Purpose and scope.

In consideration of inmate education, occupation, and leisure-time needs, the Bureau of Prisons affords inmates the opportunity to improve their knowledge and skills through academic, occupation and leisure-time activities. All institutions, except satellite camps, detention centers and metropolitan correctional centers, shall operate a full range of activities as outlined in this rule.

§ 544.81 Program goals.

The Warden shall ensure that an inmate with the need, capacity, and sufficient time to serve, has the opportunity to:

- (a) Complete an Adult Literacy program leading to a General Educational Development (GED) certificate and/or high school diploma;
 - (b) Complete one or more levels of English-as-a-Second Language;
 - (c) Acquire or improve marketable skill through one or more programs of Occupation Education (OE);
 - (d) Complete one or more Postsecondary Education activities;
 - (e) Complete one or more Adult Continuing Education activities;
 - (f) Participate in one or more leisure, fitness, wellness or sport activities;
 - (g) Participate in a Release Preparation program; and
 - (h) Participate in Career Counseling.
- Staff shall encourage each inmate to accept the responsibility to identify any specific education needs, set personal goals, and select activities, programs and/or work experiences which will help to reach those goals.

[58 FR 65852, Dec. 16, 1993, as amended at 61 FR 47795, Sept. 10, 1996]

§ 544.82 General program characteristics.

(a) The Supervisor of Education shall assure that the following minimum criteria are met for the institution's education program set forth in § 544.81.

- (1) There is a written curriculum which establishes measurable behavioral objectives and procedures.
 - (2) There are clear criteria which establish minimum expectations for program completion, as well as provisions for the assessment of student progress.
 - (3) There are provisions for periodic review of the relevancy and effectiveness of the program.
 - (4) Unless unusual circumstances (e.g., college credit courses) exist, all programs should allow for open entry and exit, at least on a monthly basis.
 - (5) The Supervisor of Education may establish other requirements necessary to assure that the stated goals of the program are achieved.
- (b) Upon an inmate's completion of a program specified in § 544.81, staff may