

### § 400.3

- (18) Vocational Education Dropout Prevention Program (34 CFR part 423).
- (19) Model Centers of Regional Training for Skilled Trades Program (34 CFR part 424).
- (20) Demonstration Projects for the Integration of Vocational and Academic Learning Program (34 CFR part 425).
- (21) Cooperative Demonstration Programs (34 CFR part 426).
- (22) Bilingual Vocational Training Program (34 CFR part 427).
- (23) Bilingual Vocational Instructor Training Program (34 CFR part 428).
- (24) Bilingual Materials, Methods, and Techniques Program (34 CFR part 429).

(Authority: 20 U.S.C. 2301 *et seq.*)

#### § 400.3 What other regulations apply to the Vocational and Applied Technology Education Programs?

The following regulations apply to the Vocational and Applied Technology Education Programs:

- (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) (applicable to parts 401, 402, 405, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 421, 422, 423, 424, 425, 426, 427, 428, and 429 except that 34 CFR 75.720(b) does not apply to performance reports under parts 401, 402, 405, 408, 409, 412, 413, 415, 416, 417, 419, 422, 423, 424, 425, 426, 427, and 428, and to financial reports under parts 412 and 413).
- (3) 34 CFR part 76 (State-Administered Programs) (applicable to parts 403, 406, and 407).
- (4) 34 CFR part 77 (Definitions that Apply to Department Regulations).
- (5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) (not applicable to parts 401, 410, 411, 413, 418, and 419).
- (6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).
- (7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

### 34 CFR Ch. IV (7–1–10 Edition)

- (8) 34 CFR part 82 (New Restrictions on Lobbying) (not applicable to parts 401 and 410).
- (9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).
- (10) 34 CFR part 86 (Drug-Free Schools and Campuses).
- (b) The Federal Acquisition Regulation (FAR) in 48 CFR chapter 1 and the Education Department Acquisition Regulation (EDAR) in 48 CFR chapter 34 (applicable to contracts under parts 401, 402, 411, 412, 426, 427, 428, and 429).
- (c) The regulations in this part 400.
- (d) The regulations in 34 CFR parts 401, 402, 403, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 421, 422, 423, 424, 425, 426, 427, 428, and 429.

(Authority: 20 U.S.C. 2301 *et seq.*)

#### § 400.4 What definitions apply to the Vocational and Applied Technology Education Programs?

- (a) *Definitions in EDGAR.* The following terms used in regulations for the Vocational and Applied Technology Education Programs are defined in 34 CFR 77.1:

Acquisition  
Applicant  
Application  
Award  
Budget  
Contract  
Department  
EDGAR  
Elementary school  
Facilities  
Federally recognized Indian tribal government  
Fiscal year  
Grant  
Grantee  
Grant period  
Nonprofit  
Private  
Project  
Public  
Recipient  
Secondary school  
Secretary  
State educational agency  
Subgrant  
Subgrantee  
Supplies

(b) *Other definitions.* The following definitions also apply to the regulations for Vocational and Applied Technology Education Programs.

*Act* means the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*), as amended by Public Law 101-392, 104 Stat. 753 (1990), and Public Law 102-103, 105 Stat. 497 (1991), unless otherwise indicated.

*Administration* means activities of a State necessary for the proper and efficient performance of its duties under the Act, including supervision, but not including curriculum development activities, personnel development, or research activities.

*All aspects of an industry* includes, with respect to a particular industry that a student is preparing to enter, planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety, and environmental issues related to that industry.

*Americans with Disabilities Act of 1990* or *ADA* mean the Act in 42 U.S.C. 12101 *et seq.*

*Apprenticeship training program* means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act (29 U.S.C. 50), that is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and that contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

*Area vocational education school* means—

(1) A specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

(2) The department of a high school exclusively or principally used for providing vocational education in not less than five different occupational fields to individuals who are available for study in preparation for entering the labor market;

(3) A technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

(4) The department or division of a junior college, community college, or university that operates under the policies of the State board and provides vocational education in not less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in paragraph (3) of this definition or in this paragraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

*Career guidance and counseling* means programs that—

(1) Pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decision-making, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities; and

(2) Assist those individuals in making and implementing informed educational and occupational choices.

*Chapter 1* means chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2701 *et seq.*).

*Coherent sequence of courses* means a series of courses in which vocational and academic education are integrated, and which directly relates to, and leads to, both academic and occupational competencies. The term includes competency-based education, academic education, and adult training or retraining, including sequential units encompassed within a single adult retraining course, that otherwise meet the requirements of this definition.

*Community-based organization* means a private nonprofit organization of demonstrated effectiveness that is representative of communities or significant segments of communities and that

#### § 400.4

#### 34 CFR Ch. IV (7–1–10 Edition)

provides job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, WAVE, Inc., Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973 (29 U.S.C. 706(10)), agencies serving youth, agencies serving individuals with disabilities, including disabled veterans, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and an organization of demonstrated effectiveness serving non-reservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(Authority: 20 U.S.C. 2471(6); 41 U.S.C. 1503(5))

*Construction* includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

*Cooperative education* means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. The two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

*Criminal offender* means any individual who is charged with, or convicted of, any criminal offense, including a youth offender or a juvenile offender.

*Correctional institution* means any—

- (1) Prison;
- (2) Jail;

- (3) Reformatory;
- (4) Work farm;
- (5) Detention center; or
- (6) Halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

*Curriculum materials* means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field that is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

*Disadvantaged* refers to individuals (other than individuals with disabilities) who have economic or academic disadvantages and who require special services and assistance in order to enable these individuals to succeed in vocational education programs. This term includes individuals who are members of economically disadvantaged families, migrants, individuals of limited English proficiency, and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school. For the purpose of this definition, an individual who scores at or below the 25th percentile on a standardized achievement or aptitude test, whose secondary school grades are below 2.0 on a 4.0 scale (on which the grade "A" equals 4.0), or who fails to attain minimum academic competencies may be considered "academically disadvantaged." The definition does not include individuals with learning disabilities.

*Displaced homemaker* means an individual who—

- (1) Is an adult;
- (2) Has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills; and
- (3)(i) Has been dependent on public assistance or on the income of a relative but is no longer supported by that income;
- (ii) Is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title

IV of the Social Security Act (42 U.S.C. 601), Aid to Families with Dependent Children, within two years of the parent's application for assistance under the Carl D. Perkins Vocational and Applied Technology Education Act;

(iii) Is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate; or

(iv) Is described in paragraphs (1) and (2) of this definition and is a criminal offender.

*Economically disadvantaged family or individual* means a family or individual that is—

(1) Eligible for any of the following:

(i) The program for Aid to Families with Dependent Children under part A of title IV of the Social Security Act (42 U.S.C. 601).

(ii) Benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011).

(iii) To be counted for purposes of section 1005 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended (chapter 1) (20 U.S.C. 2701).

(iv) The free or reduced-price meals program under the National School Lunch Act (42 U.S.C. 1751).

NOTE TO PARAGRAPH (1)(iv): The National School Lunch Act prohibits the identification of students by name. However, State and local projects may use the total number of students participating in a free or reduced-priced meals program to determine eligibility for projects, services, and activities under the Vocational and Applied Technology Education Programs.

(v) Participation in programs assisted under title II of the JTPA.

(2) In receipt of a Pell grant or assistance under a comparable State program of need-based financial assistance.

(3) Determined by the Secretary to be low-income according to the latest available data from the Department of Commerce or the Department of Health and Human Services Poverty Guidelines.

(4) Identified as low income according to other indices of economic status, including estimates of those indices, if a grantee demonstrates to the satisfaction of the Secretary that those indices are more representative of the number of economically disadvantaged stu-

dents attending vocational education programs. The Secretary determines, on a case-by-case basis, whether other indices of economic status are more representative of the number of economically disadvantaged students attending vocational education programs, taking into consideration, for example, the statistical reliability of any data submitted by a grantee as well as the general acceptance of the indices by other agencies in the State or local area.

(Authority: 20 U.S.C. 2341(d)(3))

*Eligible recipient* means, except as otherwise provided, a local educational agency, an area vocational education school, an intermediate educational agency, a postsecondary educational institution, a State corrections educational agency, or an eligible institution as defined in 34 CFR 403.117(a).

*General occupational skills* means strong experience in, and understanding of, all aspects of an industry.

*High technology* means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

*IDEA* means the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*), formerly entitled "Education of the Handicapped Act."

*Individual with disabilities* means any individual with any disability (as defined in section 3(2) of the Americans With Disabilities Act of 1990), which includes any individual who—

(1) Has a physical or mental impairment that substantially limits one or more of the major life activities of that individual;

(2) Has a record of an impairment described in paragraph (1) of this definition; or

(3) Is regarded as having an impairment described in paragraph (1) of this definition.

NOTE: This definition necessarily includes any individual who has been evaluated under part B of the IDEA and determined to be an individual with a disability who is in need of

## § 400.4

## 34 CFR Ch. IV (7–1–10 Edition)

special education and related services; and any individual who is considered disabled under section 504 of the Rehabilitation Act of 1973.

(Authority: 42 U.S.C. 12102(2))

*Individualized education program* means a written statement for a disabled individual developed in accordance with sections 612(4) and 614(a)(5) of the IDEA (20 U.S.C. 1412(4) and 1414(a)(5)).

*Institution of higher education.* (1) The term means an educational institution in any State that—

(i) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(ii) Is legally authorized within such State to provide a program of education beyond secondary education;

(iii) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;

(iv) Is a public or other nonprofit institution; and

(v) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited—

(A) Is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

(B) Is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(2) The term also includes—

(i) Any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1) (i), (ii), (iv), and (v) of this definition; and

(ii) A public or nonprofit private educational institution in any State which, in lieu of the requirement in paragraph (1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who meet the requirements of section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)).

(Authority: 20 U.S.C. 1141(a))

*Intermediate educational agency* means a combination of school districts or counties (those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties) as are recognized in a State as an administrative agency for that State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. This term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

(Authority: 20 U.S.C. 2891(5))

*JTPA* means the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

*Limited English proficiency*, if used with reference to individuals, means individuals—

(1)(i) Who were not born in the United States or whose native language is a language other than English;

(ii) Who come from environments where a language other than English is dominant; or

(iii) Who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and

(2) Who by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny those individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(Authority: 20 U.S.C. 3223(a)(1))

*Local educational agency* means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. For the purposes of sections 114, 115, 116, 117, and 240 of the Act (implemented at 34 CFR 403.31 (e) and (f), 403.32(c)(3), 403.190, 403.191, 403.192, 403.201, 403.202, and 403.204), this term includes a State corrections educational agency.

*Measure* means a description of an outcome.

(Authority: H.R. Rep. No. 41, 101st Cong., 1st Sess. 13 (1989))

*Postsecondary educational institution* means an institution legally authorized to provide postsecondary education within a State, a Bureau of Indian Affairs-controlled postsecondary institution, or any postsecondary educational institution operated by, or on behalf of, any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or under the Act of April 16, 1934 (25 U.S.C. 452).

*Preparatory services* means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education training program. Preparatory services may include, but are not limited to—

(1) Services, programs, or activities related to outreach to, or recruitment of, potential vocational education students;

(2) Career counseling and personal counseling;

(3) Vocational assessment and testing; and

(4) Other appropriate services, programs, or activities.

*Private vocational training institution* means a business or trade school, or technical institution or other technical

or vocational school, in any State, that—

(1) Admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by the institution;

(2) Is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

(3) Has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this definition; and

(4) Is accredited—

(i) By a nationally recognized accrediting agency or association listed by the Secretary;

(ii) If the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary; or

(iii) If the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category. The committee shall prescribe the standards of content, scope, and quality that must be met by those schools and shall also determine whether particular schools meet those standards.

*Program effectiveness panel* means the panel of experts in the evaluation of education programs and in other areas of education, at least two-thirds of whom are not Federal employees, who are appointed by the Secretary, and who review and assign scores to programs according to the criteria in 34 CFR 786.12 or 787.12.

*Program year* or *academic year* mean the twelve-month period during which a State operates its vocational education program (which is most generally a period beginning on July 1 and ending on the following June 30).

(Authority: 20 U.S.C. 1225(a))

§ 400.4

34 CFR Ch. IV (7–1–10 Edition)

*Rehabilitation Act of 1973* means the Act in 29 U.S.C. 701 *et seq.*

*School facilities* means classrooms and related facilities, including initial equipment, and interests in lands on which the facilities are constructed. The term does not include any facility intended primarily for events for which admission is to be charged to the general public.

*Sequential course of study* means an integrated series of courses that are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education.

*Single parent* means an individual who—

(1) Is unmarried or legally separated from a spouse; and

(2)(i) Has a minor child or children for which the parent has either custody or joint custody; or

(ii) Is pregnant.

*Small business* means a for-profit enterprise employing 500 or fewer employees.

*Special populations* refers to individuals with disabilities, educationally and economically disadvantaged individuals (including foster children), individuals of limited English proficiency, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions.

*Specific job training* means training and education for skills required by an employer to provide the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.

*Spread* means the degree to which—

(1) Project activities and results are demonstrated to others;

(2) Technical assistance is provided to others to help them replicate project activities and results;

(3) Project activities and results are replicated at other sites; or

(4) Information and material about or resulting from the project are disseminated.

*Standard* means the level or rate of an outcome.

(Authority: H.R. Rep. No. 41, 101st Cong., 1st Sess. 13 (1989))

*State* means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658 (48 U.S.C. 1681)).

*State board* means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education or for supervision of the administration of vocational education in the State.

*State corrections educational agency* means the State agency or agencies responsible for carrying out corrections education programs in the State.

*State council* means the State council on vocational education established in accordance with 34 CFR 403.17 through 403.19.

*Supplementary services* means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

*Technology education* means an applied discipline designed to promote technological literacy that provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools, and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power, and energy.

*Transportability* means the ease by which project activities and results may be replicated at other sites, such as through the development and use of guides or manuals that provide step-by-step directions for others to follow in order to initiate similar efforts and reproduce comparable results.

*Tribally controlled community college* means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a).

*Vocational education* means organized educational programs offering a sequence of courses or instruction in a

sequence or aggregation of occupational competencies that are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. These programs must include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. This term also includes applied technology education.

*Vocational student organizations* means those organizations for individuals enrolled in vocational education programs that engage in activities as an integral part of the instructional program. These organizations may have State and national units that aggregate the work and purposes of instruction in vocational education at the local level.

*Wagner-Peyser Act* means the Act in 29 U.S.C. 49 *et seq.*

(Authority: 20 U.S.C. 2471)

**§ 400.5 Under what conditions may funds under the Act be used for the joint funding of programs?**

(a) Funds made available under the Act may be used to provide additional funds under any of the programs in—

(1) Title II, section 123 and title III of the JTPA; or

(2) The Wagner-Peyser Act.

(b) Funds used to carry out paragraph (a) of this section may be used only if the—

(1) Program otherwise meets the requirements of the Act and the requirements of the programs in paragraph (a) (1) and (2) of this section;

(2) Program serves the same individuals that are served under the Act;

(3) Program provides services in a coordinated manner with services provided under the Act; and

(4) Funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

(c) Funds that meet the conditions in paragraphs (a) and (b) of this section may be used as matching funds.

(Authority: 20 U.S.C. 2468)

**§ 400.6 What are the requirements for establishing a State Committee of Practitioners?**

(a) *Consultation.* A State shall appoint a State Committee of Practitioners (Committee) after consulting with—

(1) Local school officials representing eligible recipients;

(2) Representatives of—

(i) Organized labor;

(ii) Business;

(iii) Superintendents;

(iv) Community-based organizations;

(v) Private industry councils established under section 102(a) of the JTPA (29 U.S.C. 1512);

(vi) State councils;

(vii) Parents;

(viii) Special populations; and

(ix) Correctional institutions;

(3) The administrator appointed under 34 CFR 403.13(a);

(4) The State administrator of programs assisted under part B of the IDEA;

(5) The State administrator of programs assisted under chapter 1;

(6) The State administrator of programs for students of limited English proficiency; and

(7) Guidance counselors.

(b) *Committee selection.* The State shall select the Committee from nominees solicited from—

(1) State organizations representing school administrators;

(2) Teachers;

(3) Parents;

(4) Members of local boards of education; and

(5) Appropriate representatives of institutions of higher education.

(c)(1) *Committee membership.* The Committee must consist of—

(i) Representatives of local educational agencies, who must constitute a majority of the members of the committee;

(ii) School administrators;

(iii) Teachers;

(iv) Parents;

(v) Members of local boards of education;

(vi) Representatives of institutions of higher education; and

(vii) Students.