

DEPARTMENT OF EDUCATION**34 CFR Part 645****RIN 1840-AB65****Upward Bound Program****AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: The Secretary amends the regulations governing the Upward Bound Program in order to further implement statutory changes made to the Upward Bound Program by the Higher Education Amendments of 1992 and to clarify and simplify certain requirements governing the program. The selection criteria, prior experience criteria, and grantee accountability provisions are affected by these changes.

EFFECTIVE DATE: These regulations take effect February 23, 1995.

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SUPPLEMENTARY INFORMATION: The Upward Bound Program provides grants to institutions of higher education; public and private agencies and organizations; combinations of institutions, agencies, and organizations; and secondary schools under special circumstances. The purpose of the program is to generate the skills and motivation necessary for success in education beyond high school.

The purposes and allowable activities of the Upward Bound Program support the National Education Goals. Specifically, the program supports projects designed to increase high school graduation rates; increase competency in challenging subject matters including English, mathematics, science, foreign language, and literature; encourage more students to pursue programs that lead to careers in mathematics and science; and help gain parental participation in the social, emotional, and academic growth of their children.

On September 2, 1994, the Secretary published a notice of proposed rulemaking (NPRM) for the Upward Bound Program in the **Federal Register** (59 FR 45964-70).

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 48 persons submitted comments on the proposed regulations. An analysis of the comments and of the changes made in the regulations since publication of the NPRM is published as an appendix to these final regulations.

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 Educational 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 645

Colleges and Universities, Education of disadvantaged, Grant programs-education, Reporting and recordkeeping requirements, Secondary education. (Catalog of Federal Domestic Assistance Number 84.047, Upward Bound Program)

Dated: January 17, 1995.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 645 to read as follows:

PART 645—UPWARD BOUND PROGRAM**Subpart A—General**

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Authority: 20 U.S.C. 1070a-11 and 1070a-13, unless otherwise noted.

Subpart A—General**§ 645.1 What is the Upward Bound Program?**

(a) The Upward Bound Program provides Federal grants to projects designed to generate in program participants the skills and motivation necessary to complete a program of secondary education and to enter and succeed in a program of postsecondary education.

(b) The Upward Bound Program provides Federal grants for the following three types of projects:

- (1) Regular Upward Bound projects.
- (2) Upward Bound Math and Science Centers.

- (3) Veterans Upward Bound projects.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.2 Who is eligible for a grant?

The following entities are eligible to apply for a grant to carry out an Upward Bound project:

- (a) Institutions of higher education.
- (b) Public or private agencies or organizations.
- (c) Secondary schools, in exceptional cases, if there are no other applicants capable of providing this program in the target area or areas to be served by the proposed project.
- (d) A combination of the types of institutions, agencies, and organizations described in paragraphs (a) and (b) of this section.

(Authority: 20 U.S.C. 1070a–11 and 1070a–13)

§ 645.3 Who is eligible to participate in an Upward Bound project?

An individual is eligible to participate in a Regular, Veterans, or a Math and Science Upward Bound project if the individual meets all of the following requirements:

- (a) (1) Is a citizen or national of the United States.
- (2) Is a permanent resident of the United States.
- (3) Is in the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident.
- (4) Is a permanent resident of Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.
- (5) Is a resident of the Freely Associated States—the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.
- (b) Is—(1) A potential first-generation college student; or
 (2) A low-income individual.
- (c) Has a need for academic support, as determined by the grantee, in order to pursue successfully a program of education beyond high school.
- (d) At the time of initial selection, has completed the eighth grade but has not entered the twelfth grade and is at least 13 years old but not older than 19, although the Secretary may waive the age requirement if the applicant demonstrates that the limitation would defeat the purposes of the Upward Bound program. However, a veteran as defined in § 645.6, regardless of age, is eligible to participate in an Upward Bound project if he or she satisfies the eligibility requirements in paragraphs (a), (b), and (c) of this section.

(Authority: 20 U.S.C. 1070a–11 and 1070a–13)

§ 645.4 What are the grantee requirements with respect to low income and first-generation participants?

(a) At least two-thirds of the eligible participants a grantee serves must at the time of initial selection qualify as both low-income individuals and potential first-generation college students. The remaining participants must at the time of initial selection qualify as either low-income individuals or potential first generation college students.

(b) For purposes of documenting a participant's low-income status the following applies:

(1) In the case of a student who is not an independent student, an institution shall document that the student is a low-income individual by obtaining and maintaining—

- (i) A signed statement from the student's parent or legal guardian regarding family income;
- (ii) Verification of family income from another governmental source;
- (iii) A signed financial aid application; or
- (iv) A signed United States or Puerto Rican income tax return.

(2) In the case of a student who is an independent student, an institution shall document that the student is a low-income individual by obtaining and maintaining—

- (i) A signed statement from the student regarding family income;
- (ii) Verification of family income from another governmental source;
- (iii) A signed financial aid application; or
- (iv) A signed United States or Puerto Rican income tax return.

(c) For purposes of documenting potential first generation college student status, documentation consists of a signed statement from a dependent participant's parent, or a signed statement from an independent participant.

(d) A grantee does not have to revalidate a participant's eligibility after the participant's initial selection.

(Approved by the Office of Management and Budget under control number 1840–0550)

(Authority: 20 U.S.C. 1070a–11)

§ 645.5 What regulations apply?

The following regulations apply to the Upward Bound 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), except for § 75.511;

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

except for the definition of "secondary school" in 34 CFR 77.1;

(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 645.
 (Authority: 20 U.S.C. 1070a–11 and 1070a–13)

§ 645.6 What definitions apply to the Upward Bound Program?

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

Applicant
Application
Award
Budget
Budget period
EDGAR
Equipment
Facilities
Grant
Grantee
Project
Project period
Secretary
State
Supplies

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

Family taxable income means—

(1) With regard to a dependent student, the taxable income of the individual's parents;

(2) With regard to a dependent student who is an orphan or ward of the court, no taxable income;

(3) With regard to an independent student, the taxable income of the student and his or her spouse.

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

Independent student means a student who—

(1) Is an orphan or ward of the court;

(2) Is a veteran of the Armed Forces of the United States (as defined in this section);

(3) Is a married individual; or

(4) Has legal dependents other than a spouse.

Institution of higher education means an educational institution as defined in sections 1201(a) and 481 of the HEA.

Limited English proficiency with reference to an individual, means an individual whose native language is other than English and who has

sufficient difficulty speaking, reading, writing, or understanding the English language to deny that individual the opportunity to learn successfully in classrooms in which English is the language of instruction.

Low-income individual means an individual whose family taxable income did not exceed 150 percent of the poverty level amount in the calendar year preceding the year in which the individual initially participates in the project. The poverty level amount is determined by using criteria of poverty established by the Bureau of the Census of the U.S. Department of Commerce.

Organization/Agency means an entity that is legally authorized to operate programs such as Upward Bound in the State where it is located.

Participant means an individual who—

(1) Is determined to be eligible to participate in the project under § 645.3;

(2) Resides in the target area, or is enrolled in a target school at the time of acceptance into the project; and

(3) Has been determined by the project director to be committed to the project, as evidenced by being allowed to continue in the project for at least—

(i) Ten days in a summer component if the individual first enrolled in an Upward Bound project's summer component; or

(ii) Sixty days if the individual first enrolled in an Upward Bound project's academic year component.

Potential first-generation college student means—

(1) An individual neither of whose natural or adoptive parents received a baccalaureate degree; or

(2) A student who, prior to the age of 18, regularly resided with and received support from only one natural or adoptive parent and whose supporting parent did not receive a baccalaureate degree.

Secondary school means a school that provides secondary education as determined under State law.

Target area means a discrete local or regional geographical area designated by the applicant as the area to be served by an Upward Bound project.

Target school means a school designated by the applicant as a focus of project services.

Veteran means a person who served on active duty as a member of the Armed Forces of the United States—

(1) For a period of more than 180 days, any part of which occurred after January 31, 1955, and who was discharged or released from active duty under conditions other than dishonorable; or

(2) After January 31, 1955, and who was discharged or released from active

duty because of a service-connected disability.

(Authority: 20 U.S.C. 1001 et seq., 1070a-11, 1070a-13, 1088, 1141, 1141a, and 3283(a)).

Subpart B—What Kinds of Projects and Services Does the Secretary Assist Under This Program?

§ 645.10 What kinds of projects are supported under the Upward Bound Program?

The Secretary provides grants to the following three types of Upward Bound projects:

(a) Regular Upward Bound projects designed to prepare high school students for programs of postsecondary education.

(b) Upward Bound Math and Science Centers designed to prepare high school students for postsecondary education programs that lead to careers in the fields of math and science.

(c) Veterans Upward Bound projects designed to assist veterans to prepare for a program of postsecondary education.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.11 What services do all Upward Bound projects provide?

(a) An Upward Bound project that has received funds under this part for at least two years shall include as part of its core curriculum, instruction in—

- (1) Mathematics through pre-calculus;
- (2) Laboratory science;
- (3) Foreign language;
- (4) Composition; and
- (5) Literature.

(b) All Upward Bound projects may provide such services as—

(1) Instruction in subjects other than those listed in § 645.11(a) that are necessary for success in education beyond high school;

- (2) Personal counseling;

(3) Academic advice and assistance in secondary school course selection;

- (4) Tutorial services;

(5) Exposure to cultural events, academic programs, and other educational activities not usually available to disadvantaged youths;

(6) Activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) Instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) Mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of these persons and other professional individuals; and

(9) Programs and activities such as those described in paragraphs (b)(1) through (b)(8) of this section that are specifically designed for individuals with limited proficiency in English.

(Authority: 20 U.S.C. 1070a-13)

§ 645.12 How are regular Upward Bound projects organized?

(a) Regular Upward Bound projects—
 (1) Must provide participants with a summer instructional component that is designed to simulate a college-going experience for participants, and an academic year component; and

(2) May provide a summer bridge component to those Upward Bound participants who have graduated from secondary school and intend to enroll in an institution of higher education in the following fall term. A summer bridge component provides participants with services and activities, including college courses, that aid in the transition from secondary education to postsecondary education.

(b) A summer instructional component shall—

(1) Be six weeks in length unless the grantee can demonstrate to the Secretary that a shorter period will not hinder the effectiveness of the project nor prevent the project from achieving its goals and objectives, and the Secretary approves that shorter period; and

(2) Provide participants with one or more of the services described in § 645.11 at least five days per week.

(c)(1) Except as provided in paragraph (c)(2) of this section, an academic year component shall provide program participants with one or more of the services described in § 645.11 on a weekly basis throughout the academic year and, to the extent possible, shall not prevent participants from fully participating in academic and nonacademic activities at the participants' secondary school.

(2) If an Upward Bound project's location or the project's staff are not readily accessible to participants because of distance or lack of transportation, the grantee may, with the Secretary's permission, provide project services to participants every two weeks during the academic year.

(Authority: 20 U.S.C. 1070a-13)

§ 645.13 What additional services do Upward Bound Math and Science Centers provide and how are they organized?

(a) In addition to the services that must be provided under § 645.11(a) and may be provided under § 645.11(b), an Upward Bound Math and Science Center must provide—

(1) Intensive instruction in mathematics and science, including

hands-on experience in laboratories, in computer facilities, and at field-sites;

(2) Activities that will provide participants with opportunities to learn from mathematicians and scientists who are engaged in research and teaching at the applicant institution, or who are engaged in research or applied science at hospitals, governmental laboratories, or other public and private agencies;

(3) Activities that will involve participants with graduate and undergraduate science and mathematics majors who may serve as tutors and counselors for participants; and

(4) A summer instructional component that is designed to simulate a college-going experience that is at least six weeks in length and includes daily coursework and other activities as described in this section as well as in § 645.11.

(b) Math Science Upward Bound Centers may also include—

(1) A summer bridge component consisting of math and science related coursework for those participants who have completed high school and intend on enrolling in an institution of higher education in the following fall term; and

(2) An academic year component designed by the applicant to enhance achievement of project objectives in the most cost-effective way taking into account the distances involved in reaching participants in the project's target area.

(Approved by the Office of Management and Budget under control number 1840-0550)

(Authority: 20 U.S.C. 1070a–11 and 1070a–13)

§ 645.14 What additional services do Veterans Upward Bound projects provide?

In addition to the services that must be provided under § 645.11(a) and may be provided under § 645.11(b), a Veterans Upward Bound project must—

(a) Provide intensive basic skills development in those academic subjects required for successful completion of a high school equivalency program and for admission to postsecondary education programs;

(b) Provide short-term remedial or refresher courses for veterans who are high school graduates but who have delayed pursuing postsecondary education. If the grantee is an institution of higher education, these courses shall not duplicate courses otherwise available to veterans at the institution; and

(c) Assist veterans in securing support services from other locally available resources such as the Veterans Administration, State veterans agencies, veterans associations, and other State and local agencies that serve veterans.

(Authority: 20 U.S.C. 1070a–11 and 1070a–13)

Subpart C—How Does One Apply for An Award?

§ 645.20 How many applications for an Upward Bound award may an eligible applicant submit?

(a) The Secretary accepts more than one application from an eligible entity so long as an additional application describes a project that serves a different participant population.

(b) Each application for funding under the Upward Bound Program shall state whether the application proposes a Regular Upward Bound project, an Upward Bound Math and Science Center, or a Veterans Upward Bound project.

(Authority: 20 U.S.C. 1070a–11 and 1070a–13)

§ 645.21 What assurances must an applicant include in an application?

An applicant must assure the Secretary that—

(a) Not less than two-thirds of the project's participants will be low-income individuals who are potential first generation college students; and

(b) That the remaining participants be either low-income individuals or potential first generation college students.

(Authority 20 U.S.C. 1070a–13)

Subpart D—How Does the Secretary Make a Grant?

§ 645.30 How does the Secretary decide which grants to make?

(a) The Secretary evaluates an application for a grant as follows:

(1)(i) The Secretary evaluates the application on the basis of the selection criteria in § 645.31.

(ii) The maximum score for all the criteria in § 645.31 is 100 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(2)(i) If an applicant for a new grant proposes to continue to serve substantially the same target population or schools that the applicant is serving under an expiring project, the Secretary evaluates the applicant's prior experience in delivering services under the expiring Upward Bound project on the basis of the criteria in § 645.32.

(ii) The maximum score for all the criteria in § 645.32 is 15 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(b) The Secretary makes grants in rank order on the basis of the application's

total scores under paragraphs (a)(1) and (a)(2) of this section.

(c) If the total scores of two or more applications are the same and there are insufficient funds for these applications after the approval of higher-ranked applications, the Secretary uses whatever remaining funds are available to serve geographic areas that have been underserved by the Upward Bound Program.

(d) The Secretary may decline to make a grant to an applicant that carried out a project that involved the fraudulent use of funds under section 402A(c)(2)(B) of the HEA.

(Authority: 20 U.S.C. 1070a–11, 1070a–13)

§ 645.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application for a grant:

(a) *Need for the project* (24 points). In determining need for an Upward Bound project, the Secretary reviews each type of project (Regular, Math and Science, or Veterans) using different need criteria. The criteria for each type of project contain the same maximum score of 24 points and read as follows:

(1) The Secretary evaluates the need for a Regular Upward Bound project in the proposed target area on the basis of information contained in the application which clearly demonstrates that—

(i) The income level of families in the target area is low;

(ii) The education attainment level of adults in the target area is low;

(iii) Target high school dropout rates are high;

(iv) College-going rates in target high schools are low;

(v) Student/counselor ratios in the target high schools are high; and

(vi) Unaddressed academic, social and economic conditions in the target area pose serious problems for low-income, potentially first-generation college students.

(2) The Secretary evaluates the need for an Upward Bound Math and Science Center in the proposed target area on the basis of—

(i) The extent to which student performance on standardized achievement and assessment tests in mathematics and science in the target area is lower than State or national norms.

(ii) The extent to which potential participants attend schools in the target area that lack the resources and coursework that would help prepare persons for entry into postsecondary programs in mathematics, science, or engineering;

(iii) The extent to which such indicators as attendance data, dropout rates, college-going rates and student/counselor ratios in the target area indicate the importance of having additional educational opportunities available to low-income, first-generation students; and

(iv) The extent to which there are eligible students in the target area who have demonstrated interest and capacity to pursue academic programs and careers in mathematics and science, and who could benefit from an Upward Bound Math and Science program.

(3) The Secretary evaluates the need for a Veterans Upward Bound project in the proposed target area on the basis of clear evidence that shows—

(i) The proposed target area lacks the services for eligible veterans that the applicant proposes to provide;

(ii) A large number of veterans who reside in the target area are low income and potential first generation college students;

(iii) A large number of veterans who reside in the target area who have not completed high school or, have completed high school but have not enrolled in a program of postsecondary education; and

(iv) Other indicators of need for a Veterans Upward Bound project, including the presence of unaddressed academic or socio-economic problems of veterans in the area.

(b) *Objectives* (9 points). The Secretary evaluates the quality of the applicant's proposed project objectives on the basis of the extent to which they—

(1) Include both process and outcome objectives relating to the purpose of the applicable Upward Bound programs for which they are applying;

(2) Address the needs of the target area or target population; and

(3) Are measurable, ambitious, and attainable over the life of the project.

(c) *Plan of operation* (30 points). The Secretary determines the quality of the applicant's plan of operation by assessing the quality of—

(1) The plan to inform the faculty and staff at the applicant institution or agency and the interested individuals and organizations throughout the target area of the goals and objectives of the project;

(2) The plan for identifying, recruiting, and selecting participants to be served by the project;

(3) The plan for assessing individual participant needs and for monitoring the academic progress of participants while they are in Upward Bound;

(4) The plan for locating the project within the applicant's organizational structure;

(5) The curriculum, services and activities that are planned for participants in both the academic year and summer components;

(6) The planned timelines for accomplishing critical elements of the project;

(7) The plan to ensure effective and efficient administration of the project, including, but not limited to, financial management, student records management, and personnel management;

(8) The applicant's plan to use its resources and personnel to achieve project objectives and to coordinate the Upward Bound project with other projects for disadvantaged students;

(9) The plan to work cooperatively with parents and key administrative, teaching, and counseling personnel at the target schools to achieve project objectives; and

(10) A follow-up plan for tracking graduates of Upward Bound as they enter and continue in postsecondary education.

(d) *Applicant and community support* (16 points). The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which—

(1) The applicant is committed to supplementing the project with resources that enhance the project such as: space, furniture and equipment, supplies, and the time and effort of personnel other than those employed in the project.

(2) The applicant has secured written commitments of support from schools, community organizations, and businesses, including the commitment of resources that will enhance the project as described in paragraph (d)(1) of this section.

(e) *Quality of personnel* (8 points). To determine the quality of personnel the applicant plans to use, the Secretary looks for information that shows—

(1) The qualifications required of the project director, including formal training or work experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects;

(2) The qualifications required of each of the other personnel to be used in the project, including formal training or work experience in fields related to the objectives of the project;

(3) The quality of the applicant's plan for employing personnel who have succeeded in overcoming barriers similar to those confronting the project's target population.

(f) *Budget and cost effectiveness* (5 points). The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support planned project services and activities; and

(2) Costs are reasonable in relation to the objectives and scope of the project.

(g) *Evaluation plan* (8 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project and include both quantitative and qualitative evaluation measures; and

(2) Examine in specific and measurable ways the success of the project in making progress toward achieving its process and outcomes objectives.

(Approved by the Office of Management and Budget under control number 1840-0550)

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.32 How does the Secretary evaluate prior experience?

(a) In the case of an application described in § 645.30(a)(2), the Secretary reviews information relating to an applicant's performance under its expiring Upward Bound grant. This information includes information derived from annual performance reports, audit reports, site visit reports, project evaluation reports, and any other verifiable information submitted by the applicant.

(b) The Secretary evaluates the applicant's prior experience in delivering services on the basis of the following criteria:

(1) (3 points) Whether the applicant serves the number of participants agreed to under the approved application;

(2) (3 points) The extent to which project participants have demonstrated improvement in academic skills and competencies as measured by standardized achievement tests and grade point averages;

(3) (3 points) The extent to which project participants continue to participate in the Upward Bound Program until they complete their secondary education program;

(4) The extent to which participants who complete the project, or were scheduled to complete the project, undertake programs of postsecondary education; and

(5) (3 points) The extent to which participants who complete the project, or were scheduled to complete the project, succeed in education beyond high school, including the extent to

which they graduate from postsecondary education programs.

(Approved by the Office of Management and Budget under control number 1840-0550)
(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.33 How does the Secretary set the amount of a grant?

(a) The Secretary sets the amount of a grant on the basis of—
(1) 34 CFR 75.232 and 75.233, for new grants; and

(2) 34 CFR 75.253, for the second and subsequent years of a project period.

(b) If the circumstances described in section 402A(b)(3) of the HEA exist, the Secretary uses the available funds to set the amount of the grant at the lesser of—
(1) \$190,000; or

(2) The amount requested by the applicant.

(Authority: 20 U.S.C. 1070a-11)

§ 645.34 How long is a project period?

(a) Except as provided in paragraph (b) of this section, a project period under the Upward Bound Program is four years.

(b) The Secretary approves a project period of five years for applicants that score in the highest ten percent of all applicants approved for new grants under the criteria in § 645.31.

(Authority: 20 U.S.C. 1070a-11)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 645.40 What are allowable costs?

The cost principles that apply to the Upward Bound Program are in 34 CFR part 74, subpart Q. Allowable costs include the following if they are reasonably related to the objectives of the project:

(a) In-service training of project staff.

(b) Rental of space if space is not available at the host institution and the space rented is not owned by the host institution.

(c) For participants in an Upward Bound residential summer component, room and board—computed on a weekly basis—not to exceed the weekly rate the host institution charges regularly enrolled students at the institution.

(d) Room and board for those persons responsible for dormitory supervision of participants during a residential summer component.

(e) Educational pamphlets and similar materials for distribution at workshops for the parents of participants.

(f) Student activity fees for Upward Bound participants.

(g) Admissions fees, transportation, Upward Bound T-shirts, and other costs necessary to participate in field trips,

attend educational activities, visit museums, and attend other events that have as their purpose the intellectual, social, and cultural development of participants.

(h) Costs for one project-sponsored banquet or ceremony.

(i) Tuition costs for postsecondary credit courses at the host institution for participants in the summer bridge component.

(j) Accident insurance to cover any injuries to a project participant while participating in a project activity; and

(2) Medical insurance and health service fees for the project participants while participating full-time in the summer component.

(k) Courses in English language instruction for project participants with limited proficiency in English and for whom English language proficiency is necessary to succeed in postsecondary education.

(l) Transportation costs of participants for regularly scheduled project activities.

(m) Transportation, meals, and overnight accommodations for staff members when they are required to accompany participants in project activities such as field trips.

(n) Purchase of computer hardware, computer software, or other equipment for student development, project administration and recordkeeping, if the applicant demonstrates to the Secretary's satisfaction that the equipment is required to meet the objectives of the project more economically or efficiently.

(o) Fees required for college admissions applications or entrance examinations if—

(1) A waiver of the fee is unavailable;

(2) The fee is paid by the grantee to a third party on behalf of a participant.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.41 What are unallowable costs?

Costs that may not be charged against a grant under this program include the following:

(a) Research not directly related to the evaluation or improvement of the project.

(b) Meals for staff except as provided in § 645.40 (d) and (m) and in paragraph (c) of this section.

(c) Room and board for administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants during a residential summer component unless these costs are approved by the Secretary.

(d) Room and board for participants in Veterans Upward Bound projects.

(e) Construction, renovation or remodeling of any facilities.

(f) Tuition, stipends, or any other form of student financial aid for project staff beyond that provided to employees of the grantee as part of its regular fringe benefit package.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.42 What are Upward Bound stipends?

(a) An Upward Bound project may provide stipends for all participants who participate on a full-time basis.

(b) In order to receive the stipend, the participant must show evidence of satisfactory participation in activities of the project including—

(1) Regular attendance; and

(2) Performance in accordance with standards established by the grantee and described in the application.

(c) The grantee may prorate the amount of the stipend according to the number of scheduled sessions in which the student participated.

(d) The following rules govern the amounts of stipends a grantee is permitted to provide:

(1) For Regular Upward Bound projects and Upward Bound Math and Science Centers—

(i) For the academic year component, the stipend may not exceed \$40 per month; and

(ii) For the summer component, the stipend may not exceed \$60 per month.

(2) For Veterans Upward Bound projects, the stipend may not exceed \$40 per month.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13)

§ 645.43 What other requirements must a grantee meet?

(a) *Number of participants.* (1) In each budget period, Regular Upward Bound projects shall serve between 50 and 150 participants and Upward Bound Math and Science projects shall serve between 50 and 75 participants.

(2) Veterans Upward Bound projects shall serve a minimum of 120 veterans in each budget period.

(3) The Secretary may waive the requirements of paragraphs (a)(1) and (a)(2) of this section if the applicant can demonstrate that the project will be more cost effective and consistent with the objectives of the program if a greater or lesser number of participants will be served.

(b) *Project director.* (1) A grantee shall employ a full-time project director unless paragraph (b)(3) of this section applies.

(2) The grantee shall give the project director sufficient authority to administer the project effectively.

(3) The Secretary waives the requirement in paragraph (b)(1) of this section if the applicant demonstrates that the requirement will hinder coordination—

(i) Among the Federal TRIO Programs; or

(ii) Between the programs funded under sections 402A through 410 of the HEA and similar programs funded through other sources.

(c) *Recordkeeping.* For each participant, a grantee shall maintain a record of—

(1) The basis for the grantee's determination that the participant is eligible to participate in the project under § 645.3;

(2) The basis for the grantee's determination that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(3) The services that are provided to the participant;

(4) The educational progress of the participant during high school and, to the degree possible, during the participant's pursuit of a postsecondary education program.

(Authority: 20 U.S.C. 1070a-11 and 1070a-13.)

Appendix—Analysis of Comments and Responses

(Note: This appendix will not be codified in the Code of Federal Regulations.)

The following is an analysis of the comments and the changes in the regulations since publication of the NPRM on September 2, 1994 (59 FR 45964). Substantive issues are discussed under the section of the regulations to which they pertain. Minor changes made to the language published in the NPRM—and suggested changes the Secretary is not legally authorized to make under applicable statutory authority—are generally not addressed.

What is the Upward Bound Program? (§ 645.1)

Comments: Many commenters objected to the stated purpose in § 645.1(a) of the proposed regulations because of the phrase "to generate in program participants the skills and motivation necessary to persist in completing a program of secondary education and enter and complete a program of postsecondary education." Some commenters suggested that the phrase extends the stated purpose of the Upward Bound program beyond the scope of the purpose as defined in the law. Other commenters stated that this language would put an unwarranted burden upon grantees to collect enrollment and persistence data on participants through completion of a postsecondary education program.

Discussion: The Secretary does not believe that the regulations extend the purpose of the program beyond that stated in the law. The Secretary believes that the most important

measure of success in education beyond secondary school is the completion of a postsecondary education program, but the Secretary recognizes that there may be other measures of success in postsecondary education besides graduation.

Changes: This section of the regulations has been changed to show that the purpose of Upward Bound is to "complete a program of secondary education and to enter and succeed in a program of postsecondary education."

Comments: Several commenters objected to the omission of the words "regional center" in § 645.1(b)(2) (Upward Bound Math and Science Centers) of the proposed regulations. The commenters did not want projects limited to local target areas.

Discussion: The Secretary believes that it is unwise to add "regional centers" to § 645.1(b)(2) of the regulations since it would indicate that the Secretary would fund only projects with a regional concept. The regulations as written do not eliminate the regional concept; in fact, the Secretary supports the regional concept of Upward Bound Math and Science Centers. The Secretary believes, however, that substituting the word "center" for the word "project" will better emphasize the broader mission and scope of the Upward Bound Math and Science Centers.

Changes: The word "project" has been replaced with the word "center" throughout the regulations. The definition of "target area" has also been revised to reinforce the Secretary's support of regional centers.

Who is eligible to participate in an Upward Bound project? (§ 645.3): Two commenters observed that § 645.3 does not include a waiver that would allow an Upward Bound project to serve youths who are less than 13 or who have not completed eighth grade, if the secondary schools in the project's target area have an unusually high dropout rate. The commenters felt that this waiver, which has been in all Upward Bound regulations since 1977, should be included in these Upward Bound regulations.

Discussion: The Secretary agrees with the commenters.

Changes: Section 645.3 has been revised to include a waiver of the age limit requirement.

Comments: One commenter objected to the omission of a provision that awards additional points, equal to 10 percent of the applicant's score, to applications from Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. The commenter stated that the bonus points enable the applicants from these areas to compete for TRIO projects.

Discussion: The requirement that priority be given to proposals submitted by the territories was required by the Higher Education Amendments of 1992 but has been deleted from the Higher Education Act by the Higher Education Technical Amendments of 1993.

Changes: None.

Documentation of Low-income Status. (§ 645.4(b) (1) and (2))

Comments: One commenter stated that this section was confusing. The commenter

suggested that the section leads one to believe that verification of low-income status must include a signed statement from a parent or guardian, an independent verification of family income, a signed financial aid application, and a signed income tax return. The commenter also stated that high school students would be required to complete financial aid applications. The commenter believes that the Secretary is requesting that all of these items be submitted in determining low-income status.

Discussion: The commenter is in error. The conditions described in § 645.4(b)(1) and (2) are alternative requirements, as indicated by the word "or" between the next to last and last conditions. The Secretary does not require all of these forms of documentation for each participant. Low-income status can be determined by submitting any one of the items listed.

Changes: None.

What Definitions Apply to the Upward Bound Program? (§ 645.6)

Comments: Several commenters disagreed with the definition of "participant." Some commenters stated that the proposed definition, which requires that an individual receive more than one month of project services prior to being considered a participant of the project, was too restrictive. Others stated that the new definition would require grantees to devote significant resources for follow-up activities for many more participants. They further stated that the restrictive definition would not allow project staff to determine when an individual has engaged in sufficient project activities necessary to demonstrate the individual's commitment to the project.

Discussion: The Secretary agrees with the commenter that a fixed 30-day period may be too inflexible. Therefore, the Secretary has adopted a dual time period depending on whether the student first participated in a summer component or, an academic year component.

Because summer components only last six weeks and provide intensive services to students, the Secretary believes that if a project director allows a student to participate in that component for at least 10 days, which is approximately 25 percent of the summer component, the project director believes that the student is committed to the project. On the other hand, given the nature of an academic year component, the Secretary believes a 60-day period may be needed to establish an individual's commitment to the program.

Changes: The Secretary has revised the definition of "participant."

Comments: Several commenters questioned whether the proposed definition of "participant," which requires that a participant be enrolled in a target school, would prohibit individuals who reside in the target area but attend school outside of the target area from participating in an Upward Bound project. The commenters further stated that individuals whose families choose private education or participate in either voluntary or involuntary desegregation plans might be eliminated from receiving the benefits of an Upward Bound project.

Discussion: The Secretary has determined that limiting participation in an Upward Bound project to individuals who are enrolled in a target school is too restrictive and may prevent some unintended individuals from benefitting from the services of an Upward Bound project. However, the Secretary still believes that it is important that the majority of individuals who are selected as participants be enrolled in a target school so they can benefit from the cooperative relationship that exists between the target school staff and the staff of the project.

Changes: The Secretary has revised the definition of participant to allow individuals who reside in the target area to benefit from the services provided by an Upward Bound project.

Comments: Some commenters stated that the definition of "Potential first-generation college student" was not clear and would cause confusion in the field regarding foster parents and stepparents. The commenters suggested that the words "natural or adoptive" be inserted before parent(s) in both subparagraph (1) and (2) of the definition.

Discussion: The Secretary agrees with the commenters.

Changes: The definition has been revised to include "natural or adoptive" in the definition.

Comments: One commenter expressed concern that the definition of "veteran" was restrictive and did not allow all veterans to receive the services provided by an Upward Bound project.

Discussion: The proposed definition of "veteran" has been used since the Upward Bound Veterans program was established in 1972. The Secretary believes that this definition remains as valid as it was in 1972 and sees no need to change the definition.

Changes: None.

What Kinds of Projects Are Supported Under the Upward Bound Program? (§ 645.10)

Comments: Several commenters suggested that the Secretary was expanding the expected outcomes of an Upward Bound Math and Science project by stating that a project is designed to prepare high school students for postsecondary education programs and for careers in the fields of math and science. The commenters stated that the Upward Bound Math and Science project should be required to prepare participants to enter postsecondary education programs prepared to study in fields of math and science. Preparation for careers in math and science is then the responsibility of the institution offering the postsecondary program.

Discussion: The Secretary agrees with the commenters.

Changes: The language of this section has been revised to reflect the suggestions of the commenters.

What Services Do All Upward Bound Projects Provide? (§ 645.11)

Comments: Several commenters stated that § 645.11 should be revised to eliminate literature, foreign language, and mathematics through pre-calculus from the required core curriculum of the Upward Bound projects.

Discussion: The requirement for a core curriculum is mandated in section 402 of the Higher Education Act and cannot be revised by the Secretary.

Changes: None.

Comments: Several commenters suggested that the core curriculum required by § 645.11 should be offered during the summer component, the academic year component, or both.

Discussion: The Secretary will not specify when the curriculum should be offered. The Secretary believes that applicants should have the flexibility to design projects around the needs of the participants. Nonetheless, the Secretary clearly expects that most of the core curriculum will be offered in the summer component.

Changes: None.

How Are Regular Upward Bound Projects Organized? (§ 645.12)

Comments: Many commenters felt that § 645.12(b)(2), which requires that the services described in § 645.11 be offered on a daily basis, was not clear. The commenters stated that the regulations require projects to provide all services on a daily basis.

Discussion: The Secretary agrees that the section is unclear. A project must provide some of the project's services and activities at least five days a week. It does not have to provide every service and activity on a daily basis.

Changes: Section 645.12(b)(2) has been revised to require a project to provide participants with one or more of the services as described in § 645.11 at least five days a week in a summer component. Section 645.12(c)(1) has also been revised to allow a project to provide program participants with one or more of the services on a weekly basis throughout the academic year component.

What Additional Services Do Math and Science Upward Bound Centers Provide and How Are They Organized? (§ 645.13)

Comments: Several commenters objected to the use of "state-of-the-art" computer facilities in § 645.13(a)(1) because the phrase is vague and extremely subjective.

Discussion: The Secretary agrees with the commenters.

Changes: The phrase "state-of-the-art" has been deleted from this section of the regulations.

Comments: Several commenters suggested that § 645.13(a)(2) was too restrictive. The commenters stated that restricting project participants to contact with research faculty from the applicant institution prevents an institution that does not have research faculty from using persons in the community or private industry who have math and science expertise.

Discussion: The Secretary agrees with the commenters that the language is restrictive and does not allow a project to use professionals in the community.

Changes: Section 645.13(a)(2) has been revised to allow a project to use math and science professionals from the community.

Comments: One commenter suggested that the Math and Science Upward Bound Project should allow participants the opportunity to

participate in a summer bridge experience. The commenter felt that participants could benefit from the experience provided by a summer bridge component.

Discussion: The Secretary agrees with the commenter; however, the Secretary feels that the courses offered to participants in a Upward Bound Math and Science bridge component should be courses that are math and science related.

Changes: Language has been added to § 645.13 that allows Upward Bound Math and Science projects to offer a summer bridge component, provided the courses a participant enrolls in are math and science related.

How Many Applications for an Upward Bound Project Award May an Eligible Applicant Submit? (§ 645.20)

Comments: Two commenters stated that the proposed regulations redefined and extended the definition of different populations beyond that used in the Higher Education Amendments of 1992.

Discussion: The Secretary disagrees with the commenters. The Secretary believes that the examples of different populations as defined in the NPRM are valid examples.

Changes: The Secretary has deleted language that provided examples of different populations. The deletion of this language will place the responsibility for demonstrating that the project outlined in a second application will serve a different population on the applicant.

What selection criteria does the Secretary use? (§ 645.31)

Comments: Several commenters proposed that § 645.31(a)(1)(v), which requests information on families within the target area, be changed to the collection of information on individuals. The commenters felt that information on families was not readily available.

Discussion: The Secretary agrees with the commenters.

Changes: The criterion that requests the education attainment levels of adults has been changed to reflect the collection of data on "adults" rather than data on families.

Comments: Several commenters suggested that § 645.31(a)(2) be revised to include an Upward Bound Math and Science target area as well as Upward Bound Math and Science target schools. The commenters felt that by adding target areas to the criterion the applicant would be able to better document the need for a project, if that project proposes to serve participants from large geographical areas such as States or regions.

Discussion: The Secretary agrees with the commenters.

Changes: Section 645.31(a)(2) has been revised to allow applicants to provide data that consider the target area as well as the target schools.

Comments: Many commenters suggested that § 645.31(a)(1) and § 645.31(c) could be improved by reordering certain questions to encourage brevity in proposals and a more logical flow in applications. The commenters also expressed the view that reordering the criteria would allow the peer reviewers to better evaluate the application.

Discussion: The Secretary agrees with the commenters.

Changes: Section 645.31 has been revised to address the suggested reordering. The Secretary has also revised several of the subsections to assure that each subsection is clear.

Comments: Several commenters suggested that the numerical score for each individual subsection under the "need" and "plan of operation" criteria in § 645.31 should be included in the regulations. The commenters feared that without a score, the peer reviewers would not properly score the applications.

Discussion: The Secretary does not agree that the inclusion of subsection scores would greatly assist the peer reviewers in properly scoring applications. The Secretary acknowledges that in these cases the weighting for each subsection is roughly equal.

Changes: None.

Comments: Several commenters suggested that reference to performance on aptitude tests should not be included in § 645.31(a)(2)(i). One commenter suggested that the inclusion of scores from aptitude tests as part of the need criteria may suggest that Upward Bound Math and Science projects are designed to serve only students who are performing at the highest level in their secondary education program. Other commenters suggested that "aptitude" testing is too politically sensitive and the term should be avoided.

Discussion: The Secretary disagrees with the commenters. The Secretary does not believe that the inclusion of "aptitude tests" in these regulations would in any way suggest that the Math and Science Upward Bound Centers are designed to serve students who are performing at the highest level in their secondary education program. As used in this criterion, the Secretary sought to give greater priority to projects that were serving students who were attending high schools that had relatively low average scores on standardized tests.

Changes: The Secretary has modified the criteria to more fully describe the use of tests in measuring differences in school environments.

Comments: Several commenters suggested that § 645.31(c)(3) should be revised to require a follow-up plan for tracking the academic accomplishments of participants only after they have completed the Upward Bound project. The commenters stated that the proposed regulations would require the project to follow up on all persons who participated in the project. The commenters also felt that requiring the project to follow up on all participants would be extremely costly and place a considerable collection burden on projects.

Discussion: The Secretary agrees that mandatory postsecondary tracking of all persons participating in a project may be cumbersome.

Changes: Section 645.31(c)(3) has been reordered to § 645.31(c)(10) and has been changed to require a follow-up plan for tracking only those participants who are graduates of the Upward Bound project.

Comments: One commenter suggested that "applicant community" in § 645.31(c)(4) be

changed to "target area community." The commenter felt that the phrase "applicant community" left the reader of the regulations confused as to the specific community that needed to be informed, i.e., university target area community, or any other self-described community identified by the applicant.

Discussion: The Secretary agrees that this phrase may be confusing.

Changes: The Secretary has revised the criterion to describe more specifically the applicant's institutional community and the individuals and groups that should be informed throughout the target area.

Comments: One commenter suggested that the word "appropriate" as a modifier of "timelines" in § 645.31(c)(6) should be deleted because varied and different interpretations can be inferred by the applicant and the peer reviewers.

Discussion: The Secretary agrees with this commenter. The Secretary believes that it is the applicant's responsibility to present a clear and concise plan that contains timelines that cover all of the major services to be provided. The criterion will be amended to make this clarification.

Changes: The Secretary has revised the criterion to read—assessing the quality of the planned timelines for accomplishing critical elements of the project.

Comments: Several commenters suggested that the word "quality" be deleted from the applicant's plan in § 645.31(c)(9). The commenters suggest deleting the word "quality" because it is redundant and can be interpreted in different ways by the readers.

Discussion: The Secretary agrees with the commenters that use of the term is redundant but at the same time all of the sub-criteria in the Plan of Operation sub-section are about "quality" plans which will produce intended project outcomes. The Secretary believes that the evaluation of the quality of all parts of the plan of operation is at the heart of the peer review process.

Changes: Because the word quality is a part of the opening sentence in § 645.31(c), the word quality has been deleted from this section because it is redundant.

Comments: One commenter suggested that the phrase "quality control" be deleted from § 645.31(c)(8). The commenter felt that this term was not normally used to define an educational process or procedure. The commenter also indicated that the term could be misinterpreted since no definition is provided.

Discussion: The Secretary disagrees with the commenter. "Quality control" is a term used to define processes that lead to improved service delivery and better outcomes. It is not unfamiliar to educators but is probably more associated with the business sector. However, the Secretary will delete the words "quality control" from this criterion since the criterion requires that the applicant present an effective and efficient plan for the administrative oversight of the project, which would imply a measure of quality control.

Changes: The criterion has been revised for purposes of greater clarity.

Comments: One commenter noted that the regulations do not include a request for a plan to recruit underrepresented students.

The commenter stated that by not including a provision that would require applicants to submit such a plan it might imply that an Upward Bound project would not focus on providing underrepresented students with an opportunity to be successful in postsecondary education.

Discussion: The Secretary disagrees with the commenter. The Secretary believes that the Upward Bound program has and will continue to provide services to exclusively underrepresented populations. Thus a plan to do this is unnecessary.

Changes: None.

Comments: Several commenters felt that § 645.31(e)(1) would prevent projects from considering the work experience of individuals when hiring the project director. Another commenter felt that the requirement that directors have formal training in fields related to the objectives of the projects was too restrictive and would require all Upward Bound Math and Science directors to have formal education degrees in the fields of math and science.

Discussion: The Secretary agrees with the commenters that work experience should be considered when evaluating and determining the suitability of a project director.

Changes: The Secretary has revised this section to include work experience. The inclusion of work experience in this section will allow persons to substitute for formal training in fields related to the objectives of the project.

Comments: Several commenters suggested that clarity of § 645.31(g)(2) could be improved by combining the two subsections.

Discussion: The Secretary agrees with the commenters.

Changes: The two subsections have been combined into one statement.

How Does the Secretary Evaluate Prior Experience? (§ 645.32)

Comments: Several commenters suggested that the word "consistently" in § 645.32(b)(1) be deleted. The commenters felt that the word "consistently" was not defined and would have to be interpreted by each project.

Discussion: The Secretary agrees with the commenter.

Changes: The word "consistently" has been deleted from the section.

Comments: Many commenters suggested that aptitude and motivation as stated in § 645.32(b)(2) are difficult to measure. The commenters further suggested that this section of the regulations should emphasize the achievement levels and academic progress of participants. Several commenters suggested new wording for the section; some asked for the deletion of aptitude and motivation while others suggested that motivation remain a part of the section. One commenter further suggested that project retention, high school graduation, postsecondary enrollment and success in postsecondary education are better indicators of academic growth.

Discussion: The Secretary agrees with the commenters who suggested that improvements in motivation and aptitude are difficult to measure. The Secretary, however, believes that the project must be held accountable for assisting participants in the

project to develop skills that are necessary for entry into an educational program beyond high school. The Secretary also agrees with the commenter who suggested that a project's success should be measured by the success of the project's participants.

Changes: The Secretary has deleted aptitude and motivation from this criterion. The criterion now focuses on demonstrated improvement in academic skills and competencies as measured by standardized achievement tests and grade point averages.

Comments: Many commenters expressed concerns in § 645.32(b)(3) regarding the Department's efforts to highlight the need for retention of participants in the projects throughout their secondary school experience. Some commenters thought that the inclusion of retention in the project as a part of the prior experience criteria would affect the manner in which projects selected participants. They expressed concern that higher risk participants traditionally served by Upward Bound projects would be overlooked. Others felt that if this criterion remains in the prior experience section, some projects will be more likely to serve students who have higher motivation but who may not be the students with the greatest need for project services. One commenter asks that the Secretary consider the harm that this requirement could have on the Upward Bound Program and to delete the inclusion of this requirement until much more discussion and study have taken place.

Discussion: The Secretary disagrees with the commenters. The Secretary believes that the retention of participants in a project is significant for determining the success of a project. The Secretary believes that the consequences suggested by commenters that would arise if this criteria is retained do not override the disadvantages posed by a high turnover of participants. As in many intervention programs, it has been proven that the longer the participation, the far more likely is the chance for success.

Changes: This criteria has been revised for purposes of improved clarity.

Comments: Several commenters suggested that, as written, subsections (b)(4) and (b)(5) require that every participant, whether or not they have completed high school and the Upward Bound program would need to be tracked to determine whether they entered and completed postsecondary education. Instead, they suggested postsecondary continuation should be tracked for only Upward Bound and high school graduates.

Discussion: The Secretary's intent was not to have projects track Upward Bound participants who drop from the project prior to graduation from high school. However, the Secretary believes that § 645.32 (b)(4) and (b)(5) best measure the success of a project by comparing participants who enroll in a postsecondary education program and do well in college against all project participants, both those who complete the project and those who were initially scheduled to complete the project.

Changes: The criterion has been revised for purpose of clarity.

How Long Is a Project Period? (§ 645.34)

Comments: One commenter suggested that the language in § 645.34(b) be changed to

include "highest 10 percent of all applicants approved for new grants".

Discussion: The length of an Upward Bound project period is defined in the Higher Education Act. Section 645.34(b) of these regulations merely reflects the statutory requirement.

Changes: None.

What Are Allowable Costs? (§ 645.40)

Comments: Many commenters suggested that the Secretary amend § 645.40 of the proposed regulations to include college admission fees and college entrance examination fees in the list of allowable costs.

Discussion: The Secretary has found that college admissions application fees are often barriers that prevent low-income students from filing applications to postsecondary programs. The Secretary has also found that waivers of college admissions application fees are not always available to low-income students. Some State-supported institutions are legally prohibited from waiving admission application fees, and private institutions may or may not waive admissions application fees for low-income applicants. The high cost of admission application fees and the unavailability of fee waivers have the detrimental effect of preventing Upward Bound participants from completing applications to certain four-year colleges and universities. The Secretary has concluded that admissions fees should be included in the list of allowable costs under certain circumstances described in the regulations.

Upward Bound participants have historically benefited from having testing materials available in order to prepare students for the SAT, ACT, and other standardized tests. The Secretary believes that it is also appropriate to allow Upward Bound projects to pay for testing administered by a third party. Therefore, the Secretary has included entrance examination fees in the circumstances described in the regulations in the list of allowable costs.

Changes: The Secretary has changed § 645.40 so that the list of allowable costs includes fees required for college admissions applications or entrance examinations if (1) a waiver of the fee is unavailable; and (2) the fee is paid by the grantee to a third party on behalf of the participant.

Comments: One commenter suggested that allowable costs be expanded to include costs to cover medical insurance and health services fees for participants during the academic year component. The commenter stated that the regulations should be expanded to allow for coverage in the event of accidents during visits to campus sites and while on field trips.

Discussion: The Secretary believes that students participating in an Upward Bound project should be protected by medical insurance and accident insurance at all times while participating in project activities. The Secretary believes that § 645.40(j) (1) and (2) is inclusive enough to cover participants at all times while participating in a project activity.

Changes: None.

Comments: One commenter questioned the requirement of § 645.40(h), which limits the

grantee to one project-sponsored banquet or ceremony per year. The commenter suggested that projects be given the flexibility to provide as many banquets or ceremonies as they feel will motivate students toward successful completion of secondary and postsecondary education.

Discussion: The Secretary believes that motivational activities such as banquets should be supported by grant funds. However, the Secretary believes that one banquet paid for out of grant funds is reasonable.

Changes: None.

Comments: One commenter suggested that the word "bridge" should be deleted from § 645.40(i). The commenter's justification for deleting the word "bridge" is to allow beginning seniors the opportunity to take college credit courses during the summer component. The commenter felt that the program should be responsible for providing funds for participants while they pursue a secondary diploma and postsecondary program concurrently.

Discussion: The Secretary believes that all students who are able to enroll in a secondary education program and postsecondary education program concurrently should do so. However, the Secretary does not believe that program funds should be used to support the cost of tuition until the student has completed a program of secondary education.

Changes: None.

Comments: One commenter stated that § 645.40 should allow the project to pay for meals for parents of participants when these persons volunteer to serve as staff during field trips. The commenter felt that when parents serve as volunteers on field trips they should receive meals like other staff members.

Discussion: The Secretary agrees with the commenter that volunteers, whether parents or other members of the community, should at least receive meals while accompanying students on field trips. The Secretary believes that involvement in the program by parents is key to the success of a project.

Changes: None. Parents will be voluntary staff members and can receive meals as allowed under § 645.40(m) of these regulations.

Comments: Several commenters suggested that § 645.40(k) be deleted since the legislation and § 645.11(b)(9) of the regulations allow and encourage a project to provide programs and activities that are specifically designed for individuals with limited English proficiency. The commenter argued that § 645.40(k) contradicts § 645.11(b)(9).

Discussion: The Secretary partially agrees with the commenters. However, the Secretary does wish to reemphasize the point that instruction in the English language for students who need to improve their proficiency in order to pursue postsecondary education may be offered by the project.

Changes: The section has been revised to agree with 645.11(b)(9).

What Are Unallowable Costs? (§ 645.41)

Comments: One commenter suggested that § 645.41(f) be revised to allow for tuition,

stipends or any other form of student financial support for project staff "beyond that provided to employees of a grantee as a part of its regular fringe benefit package." The commenter did not offer any reason for suggesting the change.

Discussion: The Secretary disagrees with the commenter. A project staff member should receive fringe benefits which are consistent with the standard package offered to other employees of the grantee.

Changes: None.

What Are Upward Bound Stipends? (§ 645.42)

Comments: Several commenters suggested raising the stipend amount given to Upward Bound participants during the summer to \$80.00 per month to compete with summer jobs.

Discussion: The legislation authorizing the Upward Bound Program establishes the maximum amounts allowable for monthly payment of stipends.

Changes: None

Comments: One commenter noted that the legislation authorizes the payment of stipends in the amount of up to \$60 per month during the months of June, July, and August. However, the proposed regulations (§ 645.42(d)(1)(ii)) do not specify that June, July, and August constitute a summer session.

Discussion: The Secretary agrees with the commenter that the law authorizes the payment of up to \$60 per month during the summer component, which occurs for a six-

week period sometime during the months of June, July, and August. The regulations authorize the payment of up to \$60 per month, prorated as seen necessary, during the time the summer component is in session.

Changes: None.

What Other Requirements Must a Grantee Meet? (§ 645.43)

Comments: One commenter suggested that the word "academic" be deleted from § 645.43(c)(2) of the proposed regulations. The commenter stated that in order to take a holistic approach to a participant's need, emotional, cultural, social, as well as academic, support must be included.

Discussion: The Secretary agrees that a Upward Bound project should be designed to meet the needs of each participant. The Secretary believes that the services that a project can provide to participants as outlined in §§ 645.11 and 645.14 allow a project to meet the total needs of a participant. Section 645.43(c) does not establish the required services that a project must provide to participants, but outlines the recordkeeping requirements. All participants of an Upward Bound project must meet the eligibility requirements as defined in § 645.3 of the regulations. Section 645.43(c) establishes that, at a minimum, a project must keep records which document that all participants who enroll in an Upward Bound project have a need for academic support as well as meet the other eligibility requirements of § 645.3. This does not

preclude maintaining other information on participants.

Changes: None.

Comments: A number of commenters suggested that following a student's educational progress throughout postsecondary education would be very time consuming and potentially very costly. The commenters also stated that this requirement exceeds the legislative authority for the program.

Discussion: The Secretary believes that section 402(C) of the Higher Education Act gives the Secretary the authority to require that Upward Bound projects establish procedures for follow-up on participants who have completed the Upward Bound project to determine their success in postsecondary education. The Secretary believes that the level of tracking necessary once an Upward Bound graduate is enrolled should consist of annual contacts to determine persistence or completion.

The Secretary believes that a system of follow-up is necessary for determining the effectiveness of the Upward Bound Program. This system should include or provide a method for determining if an Upward Bound participant who completed the project and enrolled in a postsecondary education program remains enrolled in the postsecondary program to completion.

Changes: None.

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