

and subgroups of students described in section 1111(c)(2) of the Act and a comparable measure of student performance on the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act for participating schools relative to non-participating schools; or

(E) The innovative assessment system demonstrates comparability to the statewide assessments under section 1111(b)(2) of the Act in content coverage, difficulty, and quality.

(2)(i) In the case of a consortium of SEAs, the Secretary may withdraw innovative assessment demonstration authority for the consortium as a whole at any time during its demonstration authority period or extension period if the Secretary requests, and no member of the consortium provides, the information under paragraph (b)(1)(i) or (ii) of this section.

(ii) If innovative assessment demonstration authority for one or more SEAs in a consortium is withdrawn, the consortium may continue to implement the authority if it can demonstrate, in an amended application to the Secretary that, as a group, the remaining SEAs continue to meet all requirements and selection criteria in §§ 200.105 and 200.106.

(c) *Waiver authority.* (1) At the end of the extension period, an SEA that is not yet approved consistent with § 200.107 to implement its innovative assessment system statewide may request a waiver from the Secretary consistent with section 8401 of the Act to delay the withdrawal of authority under paragraph (b) of this section for the purpose of providing the SEA with the time necessary to receive approval to transition to use of the innovative assessment system statewide under § 200.107(b).

(2) The Secretary may grant an SEA a one-year waiver to continue the innovative assessment demonstration authority, if the SEA submits, in its request under paragraph (c)(1) of this section, evidence satisfactory to the Secretary that it—

(i) Has met all of the requirements under paragraph (b)(1) of this section and of §§ 200.105 and 200.106; and

(ii) Has a high-quality plan, including input from stakeholders under § 200.105(a)(2), for transition to state-

wide use of the innovative assessment system, including peer review consistent with § 200.107, in a reasonable period of time.

(3) In the case of a consortium of SEAs, the Secretary may grant a one-year waiver consistent with paragraph (c)(1) of this section for the consortium as a whole or for individual member SEAs, as necessary.

(d) *Return to the statewide assessment system.* If the Secretary withdraws innovative assessment demonstration authority consistent with paragraph (b) of this section, or if an SEA voluntarily terminates use of its innovative assessment system prior to the end of its demonstration authority, extension, or waiver period under paragraph (c) of this section, as applicable, the SEA must—

(1) Return to using, in all LEAs and schools in the State, a statewide assessment that meets the requirements of section 1111(b)(2) of the Act; and

(2) Provide timely notice to all participating LEAs and schools of the withdrawal of authority and the SEA's plan for transition back to use of a statewide assessment.

(Authority: 20 U.S.C. 1221e-3, 3474, 6364, 6571)

[81 FR 88971, Dec. 8, 2016]

§ 200.109 [Reserved]

PART 206—SPECIAL EDUCATIONAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND OTHER SEASONAL FARMWORK—HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

Subpart A—General

Sec.

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206.31 How does the Secretary evaluate points for prior experience for HEP and CAMP service delivery?

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

206.40 What restrictions are there on expenditures?

AUTHORITY: 20 U.S.C. 1070d-2, unless otherwise noted.

SOURCE: 46 FR 35075, July 6, 1981, unless otherwise noted.

Subpart A—General

§ 206.1 What are the special educational programs for students whose families are engaged in migrant and other seasonal farm-work?

(a) *High School Equivalency Program.* The High School Equivalency Program (HEP) is designed to assist persons who are eligible under § 206.3—to obtain the equivalent of a secondary school diploma and subsequently to gain employment or be placed in an institution of higher education (IHE) or other postsecondary education or training.

(b) *College Assistance Migrant Program.* The College Assistance Migrant Program (CAMP) is designed to assist persons who are eligible under § 206.3—who are enrolled or are admitted for enroll-

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ment on a full-time basis in the first academic year at an IHE.

(Authority: 20 U.S.C. 1070d-2(a))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992]

§ 206.2 Who is eligible to participate as a grantee?

(a) *Eligibility.* An IHE or a private nonprofit organization may apply for a grant to operate a HEP or CAMP project.

(b) *Cooperative planning.* If a private nonprofit organization other than an IHE applies for a HEP or a CAMP grant, that agency must plan the project in cooperation with an IHE and must propose to operate the project, or in the case of a HEP grant, some aspects of the project, with the facilities of that IHE.

(Authority: 20 U.S.C. 1070d-2(a))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987]

§ 206.3 Who is eligible to participate in a project?

(a) *General.* To be eligible to participate in a HEP or a CAMP project—

(1) A person, or his or her immediate family member, must have spent a minimum of 75 days during the past 24 months as a migrant or seasonal farmworker; or

(2) The person must have participated (with respect to HEP within the last 24 months), or be eligible to participate, in programs under 34 CFR part 200, subpart C (Title I—Migrant Education Program) or 20 CFR part 633 (Employment and Training Administration, Department of Labor—Migrant and Seasonal Farmworker Programs).

(b) *Special HEP qualifications.* To be eligible to participate in a HEP project, a person also must—

(1) Not have earned a secondary school diploma or its equivalent;

(2) Not be currently enrolled in an elementary or secondary school;

(3) Be 16 years of age or over, or beyond the age of compulsory school attendance in the State in which he or she resides; and

(4) Be determined by the grantee to need the academic and supporting services and financial assistance provided

by the project in order to attain the equivalent of a secondary school diploma and to gain employment or be placed in an IHE or other postsecondary education or training.

(c) *Special CAMP qualifications.* To be eligible to participate in a CAMP project, a person also must—

(1) Be enrolled or be admitted for enrollment as a full-time student at the participating IHE;

(2) Not be beyond the first academic year of a program of study at the IHE, as determined under the standards of the IHE; and

(3) Be determined by the grantee to need the academic and supporting services and financial assistance provided by the project in order to complete an academic program of study at the IHE.

(Authority: 20 U.S.C. 1070d-2(a))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992; 75 FR 65769, Oct. 26, 2010]

§ 206.4 What regulations apply to these programs?

The following regulations apply to HEP and CAMP:

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

(1) [Reserved]

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

(3) 34 CFR part 77 (Definitions That Apply to Department Regulations).

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

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

(6) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(7) [Reserved]

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(9) 34 CFR part 97 (Protection of Human Subjects).

(10) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(11) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 206.

(c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2

CFR part 200, as adopted in 2 CFR part 3474, and the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted in 2 CFR part 3485.

(Authority: 20 U.S.C. 1070d-2(a))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992; 58 FR 11539, Feb. 26, 1993; 75 FR 65770, Oct. 26, 2010; 79 FR 76095, Dec. 19, 2014]

§ 206.5 What definitions apply to these programs?

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

Applicant
Application
Award
Elementary school
EDGAR
Facilities
Grant
Grantee
Minor remodeling
Nonprofit
Private
Project
Public
Secondary school
Secretary
State

(b) *Definitions in the grants administration regulations.* The following terms used in this part are defined in 2 CFR part 200, as adopted in 2 CFR part 3474:

Budget
Equipment
Supplies

(c) *Program definitions.* The following additional definitions apply specifically to HEP and CAMP:

(1) *Act* means the Higher Education Act of 1965, as amended.

(2) *Agricultural activity* means:

(i) Any activity directly related to the production of crops, dairy products, poultry, or livestock;

(ii) Any activity directly related to the cultivation or harvesting of trees; or

(iii) Any activity directly related to fish farms.

(3) *Farmwork* means any agricultural activity, performed for either wages or

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personal subsistence, on a farm, ranch, or similar establishment.

(4) *Full-time*, with respect to an individual, means a student who is carrying a full-time academic workload, as defined in 34 CFR part 690 (regulations for the Pell Grant Program).

(5) *Immediate family member* means one or more of the following:

(i) A spouse.

(ii) A parent, step-parent, adoptive parent, foster parent, or anyone with guardianship.

(iii) Any person who—

(A) Claims the individual as a dependent on a Federal income tax return for either of the previous two years, or

(B) Resides in the same household as the individual, supports that individual financially, and is a relative of that individual.

(6) *Institution of higher education* means an educational institution that:

(i) Is in a State;

(ii) Is authorized by that State to provide a program of education beyond secondary school;

(iii) Is a public or nonprofit institution;

(iv) Admits as a regular student only a person who:

(A) Has a secondary school diploma;

(B) Has the recognized equivalent of a secondary school diploma; or

(C) Is beyond the age of compulsory school attendance in that State and has the ability to benefit from the training offered by the institution;

(v) Provides:

(A) An educational program for which it awards a bachelor's degree; or

(B) At least a two-year program that is acceptable for full credit toward a bachelor's degree;

(vi)(A) Is accredited by a nationally recognized accrediting agency or association;

(B) Has satisfactorily assured the Secretary that it will meet the accreditation standards of a nationally recognized accrediting agency or association within a reasonable time considering the resources available to the institution, the period of time, if any, it has operated, and its effort to meet accreditation standards; or

(C) Has its credits accepted on transfer by at least three accredited institu-

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tions on the same basis as those institutions accept transfer credits from fully accredited institutions.

(7) *Migrant farmworker* means a seasonal farmworker—as defined in paragraph (c)(8) of this section—whose employment required travel that precluded the farmworker from returning to his or her domicile (permanent place of residence) within the same day.

(8) *Seasonal farmworker* means a person whose primary employment was in farmwork on a temporary or seasonal basis (that is, not a constant year-round activity) for a period of at least 75 days within the past 24 months.

(d) *Other definitions.* For purposes of determining program eligibility under § 206.3(a)(2), the definitions in 34 CFR 200.81 (Title I—Migrant Education Program) and 20 CFR 633.104 (Employment and Training Administration, Department of Labor—Migrant and Seasonal Farmworker Programs) apply.

(Authority: 20 U.S.C. 1070d–2(a))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992; 75 FR 65770, Oct. 26, 2010; 79 FR 76095, Dec. 19, 2014]

Subpart B—What Kinds of Activities Does the Secretary Assist Under These Programs?

§ 206.10 What types of services may be provided?

(a) *General.* A grantee may use funds under HEP or CAMP to support approved projects designed to provide academic and supporting services and financial assistance to eligible participants as described in § 206.3.

(b) *Types of services—(1) HEP projects.* A HEP project may provide the following types of services to assist participants in obtaining the equivalent of a secondary school diploma, and as needed, to assure the success of the participants in meeting the project's objectives and in succeeding at the secondary school level and beyond:

(i) Recruitment services to reach persons who are eligible under § 206.3 (a) and (b).

(ii) Educational services that provide instruction designed to help students pass an examination and obtain a certificate that meets the guidelines for

high school equivalency established by the State in which the project is located.

(iii) Supportive services that include the following:

(A) Personal, vocational, and academic counseling;

(B) Placement services designed to place students in a university, college, or junior college program (including preparation for college entrance examinations), or in military services or career positions; and

(C) Health services.

(iv) Information concerning and assistance in obtaining available student financial aid.

(v) Stipends for high school equivalency program participants.

(vi) Housing for those enrolled in residential programs.

(vii) Exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth.

(viii) Other essential supportive services, (such as transportation and child care) as needed, to ensure the success of eligible students.

(ix) Other activities to improve persistence and retention in postsecondary education.

(2) *CAMP projects.* A CAMP project may provide the following types of services to assist the participants in meeting the project's objectives and in succeeding in an academic program of study at the IHE:

(i) Outreach and recruitment services to reach persons who are eligible under §206.3 (a) and (c).

(ii) Supportive and instructional services to improve placement, persistence, and retention in postsecondary education, including:

(A) Personal, academic, career economic education, or personal finance counseling as an ongoing part of the program;

(B) Tutoring and academic-skillbuilding instruction and assistance;

(C) Assistance with special admissions;

(D) Health services; and

(E) Other services as necessary to assist students in completing program requirements.

(iii) Assistance in obtaining student financial aid that includes, but is not limited to, the following:

(A) Stipends.

(B) Scholarships.

(C) Student travel.

(D) Career-oriented work-study.

(E) Books and supplies.

(F) Tuition and fees.

(G) Room and board.

(H) Other assistance necessary to assist students in completing their first year of college or university.

(iv) Housing support for students living in institutional facilities and commuting students.

(v) Exposure to cultural events, academic programs, and other activities not usually available to migrant youth.

(vi) Internships.

(vii) Other essential supportive services (such as transportation and child care) as necessary to ensure the success of eligible students.

(c) The health services, and other financial support services provided to participating students must:

(1) Be necessary to ensure their participation in the HEP or CAMP; and

(2) Not detract, because of the amount, from the basic educational services provided under those programs.

(Authority: 20 U.S.C. 1070d-2(b) and (c))

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992; 75 FR 65770, Oct. 26, 2010]

§206.11 What types of CAMP services must be provided?

(a) In addition to the services provided in §206.10(b)(2), CAMP projects must provide follow-up services for project participants after they have completed their first year of college.

(b) Follow-up services may include—

(1) Monitoring and reporting the academic progress of students who participated in the project during their first year of college and their subsequent years in college;

(2) Referring these students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating those services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and

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aid provided by community-based organizations, which may include mentoring and guidance; and

(3) For students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of those students.

(c) Grantees may not use more than 10 percent of funds awarded to them for follow-up services.

(Authority: 20 U.S.C. 1070d-2(c))

[57 FR 60407, Dec. 18, 1992, as amended at 75 FR 65770, Oct. 26, 2010]

Subpart C—How Does One Apply for a Grant?

§ 206.20 What must be included in an application?

In applying for a grant, an applicant shall:

(a) Follow the procedures and meet the requirements stated in subpart C of 34 CFR part 75 (EDGAR-Direct Grant Programs);

(b) Submit a grant application that:

(1) Covers a period of five years unless extraordinary circumstances warrant a shorter period; and

(2) Includes an annual budget of not less than \$180,000;

(c) Include a management plan that contains:

(1) Assurances that the staff has a demonstrated knowledge of and will be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population; and

(2) Provisions for:

(i) Staff inservice training;

(ii) Training and technical assistance;

(iii) Staff travel;

(iv) Student travel;

(v) Interagency coordination; and

(vi) Project evaluation; and

(d) Provide the following assurances:

(1) The grantee will develop and implement a plan for identifying, informing, and recruiting eligible participants who are most in need of the academic and supporting services and financial assistance provided by the project.

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(2) The grantee will develop and implement a plan for identifying and using the resources of the participating IHE and the community to supplement and enhance the services provided by the project.

(Authority: 20 U.S.C. 1070d-2(a) and (d)-(f))

(Approved by the Office of Management and Budget under control number 1810-0055)

[46 FR 35075, July 6, 1981, as amended at 52 FR 24920, July 1, 1987; 57 FR 60407, Dec. 18, 1992; 75 FR 65770, Oct. 26, 2010]

Subpart D—How Does the Secretary Make a Grant to an Applicant?

§ 206.30 How does the Secretary evaluate an application?

The Secretary evaluates an application under the procedures in 34 CFR part 75.

(Authority: 20 U.S.C. 1070d-2(a) and (e))

[62 FR 10403, Mar. 6, 1997]

§ 206.31 How does the Secretary evaluate points for prior experience for HEP and CAMP service delivery?

(a) In the case of an applicant for a HEP award, the Secretary considers the applicant's experience in implementing an expiring HEP project with respect to—

(1) Whether the applicant served the number of participants described in its approved application;

(2) The extent to which the applicant met or exceeded its funded objectives with regard to project participants, including the targeted number and percentage of—

(i) Participants who received a general educational development (GED) credential; and

(ii) GED credential recipients who were reported as entering postsecondary education programs, career positions, or the military; and

(3) The extent to which the applicant met the administrative requirements, including recordkeeping, reporting, and financial accountability under the terms of the previously funded award.

(b) In the case of an applicant for a CAMP award, the Secretary considers

the applicant's experience in implementing an expiring CAMP project with respect to—

(1) Whether the applicant served the number of participants described in its approved application;

(2) The extent to which the applicant met or exceeded its funded objectives with regard to project participants, including the targeted number and percentage of participants who—

(i) Successfully completed the first year of college; and

(ii) Continued to be enrolled in post-secondary education after completing their first year of college; and

(3) The extent to which the applicant met the administrative requirements, including recordkeeping, reporting, and financial accountability under the terms of the previously funded award.

(Authority: 20 U.S.C. 1070d-2(e))

[75 FR 65770, Oct. 26, 2010]

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

§ 206.40 What restrictions are there on expenditures?

Funds provided under HEP or CAMP may not be used for construction activities, other than minor construction-related activities such as the repair or minor remodeling or alteration of facilities.

(Authority: Sec. 418A(a); 20 U.S.C. 1070d-2)

PART 222—IMPACT AID PROGRAMS

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