

# AUDIT GUIDE

National Direct Student  
Loan Program (NDSL)

College Work-Study  
Program (CWS)

Supplemental Educational  
Opportunity Grants  
Program (SEOG)

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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Guide for Audits  
of  
National Direct Student Loan Program (NDSL)  
College Work-Study Program (CWS)  
Supplemental Educational Opportunity Grants Program (SEOG)

Office of the Inspector General  
Department of Health, Education, and Welfare  
Audit Agency

July 1978

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This document is not a replacement to the Higher Education Act, as amended; the regulations; or the Office of Education program manuals and policy statements. The requirements established herein are the responsibility of the Department of Health, Education, and Welfare. Any clarifications required should be discussed with the appropriate HEW Regional Audit Director.

## ABBREVIATIONS

HEW	-	Department of Health, Education, and Welfare
OE	-	Office of Education
DFAFS	-	Departmental Federal Assistance Financing System
AICPA	-	American Institute of Certified Public Accountants
OMB	-	Office of Management and Budget
CFR	-	Code of Federal Regulations
NDSL	-	National Direct Student Loan Program
CWS	-	College Work-Study Program
SEOG	-	Supplemental Educational Opportunity Grants Program
BSFA	-	Bureau of Student Financial Assistance
DEAE	-	Division of Eligibility and Agency Evaluation, OE
CPA	-	Certified Public Accountant
EOG	-	Educational Opportunity Grants Program
GSL	-	Guaranteed Student Loan Program
BEOG	-	Basic Educational Opportunity Grant Program
NASFAA	-	National Association Student Financial Aid Administrators
Campus Based Programs - Reference to NDSL, CWS and SEOG Program		

GUIDE FOR AUDITS  
OF  
NATIONAL DIRECT STUDENT LOAN PROGRAM  
COLLEGE WORK-STUDY PROGRAM  
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

CHAPTER 1: INTRODUCTION

1.1 PURPOSE OF AUDIT GUIDE

The guide is designed to familiarize independent accountants, internal auditors and State auditors with the significant provisions of the NDSL, CWS and SEOG Programs. This audit guide should be used to supplement the audit procedures necessary to perform an examination in accordance with the financial and compliance elements of the Standards for Audit of Governmental Organizations, Programs, Activities & Functions issued by the Comptroller General of the United States in June 1972 (1974 reprint). Audit guidance is intended to provide general insight into the nature and scope of the audit contemplated. This guide is not intended to be a complete manual of procedures, nor is it intended to supplant the auditor's judgment of audit work required. Audit procedures contained herein may not cover all circumstances or conditions encountered in the audit of a particular institution. The auditor must use professional judgment to tailor the procedures to meet conditions at the audit site so that the audit objectives may be achieved. Any necessary clarifications concerning the objectives set forth herein should be discussed with the appropriate HEW Regional Audit Director.

During the development of this guide, the HEW Audit Agency conferred with representatives of the American Institute of Certified Public Accountants (AICPA). The areas for audit coverage established in Chapter 3 are the responsibility, however, of the Department of Health, Education, and Welfare (HEW). HEW recognizes that there may be specific instances where omission of a specific section of the audit guide, e.g., program funding, may be necessary. Prior to completing the field audit, the independent auditor should discuss with the HEW Regional Audit Director the specific reasons for the omission. The auditor's working papers and the report should contain explanations of such omissions and document the Regional Audit Director's approval.

The nature of work required under this guide primarily relates to financial and compliance elements of an audit. As defined in OMB Circular A-73, the term "audit" as used in this guide means a systematic review or appraisal to determine and report on whether:

- ° Financial operations are properly conducted;
- ° Financial reports are presented fairly; and
- ° Applicable laws and regulations have been complied with.

This audit guide supersedes the audit guide dated May 1976 and shall be the prescribed guide for NDSL, CWS, and SEOG audits beginning with program year ended June 30, 1978.

## 1.2 PROGRAM BACKGROUND

The background section includes information on all six of the Student Aid Programs administered by the Office of Education, even though this guide covers only three of the programs. The policies and procedures followed by OE in administering the six programs are interrelated. Some of the audit procedures overlap into the BEOG and GSL program areas. The six major student financial aid programs are authorized under Title IV of the Higher Education Act of 1965, as amended - the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grants, College Work-Study, National Direct Student Loan, State Student Incentive Grant, and Guaranteed Student Loan Programs. During academic year 1977-78 these programs are providing assistance to an estimated 2.8 million unduplicated students at more than 8,000 participating institutions of postsecondary education, and the total compensation being provided to students, including State or institutional matching shares and NDSL collections is about \$4.2 billion.

The criteria for the eligibility of institutions to participate in the Basic Educational Opportunity Grant Program, the National Direct Student Loan Program, the College Work-Study Program, the Supplemental Educational Opportunity Grants Program or the Guaranteed Student Loan Program are defined by law. Each school must apply to the U.S. Office of Education's Division of Eligibility and Agency Evaluation (DEAE) for a determination of institutional eligibility. It is important to note that accreditation or approval for any other Federally sponsored programs (such as Veterans' Educational Benefits) does not necessarily mean that a school is eligible for any of the above programs.

The general requirements for institutional eligibility are the same for all Office of Education student financial aid programs. The institution must be legally authorized within a state or jurisdiction to provide a program beyond secondary school. For purposes of participation in the Basic Grant and campus-based programs, the eligible jurisdictions are the 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. It must either be accredited by a recognized accrediting organization, be determined by the Commissioner of Education to be attempting to meet accreditation standards, or be able to provide letters from three accredited institutions stating that the applicant institution's credits will be accepted at the accredited institutions. Proprietary schools must admit as regular students only those with a high school diploma or the recognized equivalent, of such a certificate, and public and other non-profit schools must admit only students beyond the compulsory age of school attendance who can benefit from a postsecondary program. There are also requirements for minimum program length which depend upon the type of institution.

The DEAE determines institutional eligibility for each of the Federal financial aid programs based on an application in which the institution outlines all its courses of study. The division notifies each institution of those financial aid programs in which they may participate. It is possible that some institutions will be found eligible for only some of the financial aid programs, or that only certain courses of study at the institution will be found eligible.

Authorizing legislation and purpose of the NDSL, CWS and SEOG Programs follows:

The National Direct Student Loan Program is a continuation of the National Defense Student Loan Program authorized by Title II of the National Defense Education Act of 1958. Statutory authority is found in Title IV, Part E of the Higher Education Act of 1965, as amended by Section 137(b) of Public Law 92-318, 86 Stat. 273 (20 U.S.C. 1087aa-87ff), and Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-29). Further amendments have been made by the Education Amendments of 1976, Public Law 94-482.

The purpose of the National Direct Student Loan (NDSL) Program is to assist in the establishment and maintenance of low interest long-term, deferred loan programs at institutions of postsecondary education to provide loans to students demonstrating need for financial assistance in order to pursue their courses of study at such institutions.

The College Work-Study Program was originally authorized by the Economic Opportunity Act of 1964. The Higher Education Amendments of 1968 (P.L. 90-575) transferred the statutory authority for the program to the Higher Education Act of 1965 (P.L. 89-329), as amended. CWS is currently authorized under Part C of Title IV of the Higher Education Act of 1965 as amended by the Education Amendments of 1968, 1972 and 1976.

The primary purpose of the College Work-Study Program (CWS) is to stimulate and promote the part-time employment of students. The program is designed for those students who have great financial need and who are in need of the earnings to pursue a course of study at an institution of postsecondary education. CWS is often times awarded to students with other forms of financial assistance. This enables students with the greatest need to meet their educational expenses without the necessity of incurring an unduly heavy burden of indebtedness. The program is also intended to broaden the range of worthwhile job opportunities for qualified students.

The Supplemental Educational Opportunity Grant Program is authorized under Subpart 11, Part A of Title IV of the Higher Education Act of 1965, as amended by the Education Amendments of 1968, 1972 and 1976.

The Supplemental Educational Opportunity Grants Program (SEOG) was established to assist in making the benefits of postsecondary education available to qualified students who, for the lack of financial means of their own or of their families, would be unable to obtain such benefits without the grant.

An institution of higher education wishing to establish any of the three programs must submit an application to participate in them. A combined application (OE Form 1036) entitled "Institutional Application(s) to Participate in NDSL, CWS, SEOG Programs", provides the means by which each institution requests Federal funds. The form is resubmitted annually by institutions already participating in the programs.

Upon approval of the application and before Federal funds are provided, an agreement must be executed between the Commissioner of Education and an authorized official of the institution. Institutions already participating annually sign an extension of the agreement. The institutional agreement is a legally binding document with provisions for establishing, operating, and maintaining the programs at the institution.

After the institutional agreement is executed, funds are made available on the basis of substantiated need through the Departmental Federal Assistance Financing System (DFAFS). Periodic fiscal reports are required for the administration of the programs and making payments thereunder.

### 1.3 STANDARDS FOR AUDIT

Audits of the NDSL, CWS and SEOG Programs will be performed in accordance with the financial and compliance elements of the Standards for Audit of Governmental Organizations, Programs, Activities & Functions (hereinafter referred to as "standards for governmental auditing") and supplements thereto issued by the Comptroller General of the United States. These audit standards are mandated by OMB Circular A-73 for audits of Federal operations and programs.

Where the auditor must extend auditing procedures beyond those required for the financial aid program compliance review, professional judgment should be used in determining the type and amount of evidence to be obtained.

### 1.4 GENERAL AUDIT OBJECTIVES

The objectives of the audit are to determine whether:

- The institution has established procedures for coordinating assistance provided under all Federal student aid programs in which it participates.
- The institution has implemented and utilized financial and other administrative procedures and internal controls to effectively discharge management responsibilities and to protect the Federal interest.
- The institution has established and has followed policies and procedures to ensure that the funds

provided are being used only for the purposes set forth in the institution's agreement with the Commissioner of Education and that the policies and procedures conform with applicable HEW directives.

- The financial information submitted to the Office of Education on the Annual Fiscal-Operations Reports OE Form 1152-2 (NDSL), OE Form 1152-3 (SEOG), and OE Form 1152-4 (CWS), is presented fairly and submitted on a timely basis.
- The Balance Sheets and related Statements of Changes in Fund Balances present fairly the financial position and changes in fund balances, in accordance with generally accepted accounting principles, and/or terms of agreement, applied on a basis consistent with that of the preceding year. Also, whether the supplementary statements are fairly stated in all material respects in relation to the basic financial statements taken as a whole.
- The institution has established a control and self evaluation system intended to monitor and evaluate the programs to determine if their objectives are met.

#### 1.5 MATTERS REQUIRING IMMEDIATE ACTION

Although the detection of material irregularities and program abuse is not the primary function of an audit, the auditors must be constantly alert for situations or transactions that may indicate the existence of such problems. If the auditors examination causes him to believe that material errors or irregularities exist, the auditor should consider their implications and bring the matter to the attention of the appropriate HEW Regional Audit Director (see Appendix A). If the appearance of material irregularities or program abuse exists, the auditor should do no further work involving this matter unless instructed by the HEW Regional Audit Director to resume work. Care must be taken to avoid any actions which could compromise the protection of an individual's rights and the integrity of any official inquiries. For supplemental guidance, see the AICPA Statement on Auditing Standards No. 16 and No. 17, dated January 1977--titled The Independent Auditor's Responsibility for the Detection of Errors or Irregularities and Illegal Acts by Clients, respectively.

#### 1.6 QUALITY ASSESSMENT PROGRAM FOR AUDIT REPORTS

The HEW Audit Agency has implemented procedures for evaluating audits on governmental engagements. As a part of the Audit Agency's evaluation of completed reports on such engagements, the supporting audit working papers shall be made available upon request by the cognizant HEW Regional Audit Director (see Appendix A). Audit working papers will be reviewed at a location mutually agreeable with the independent audit firm, internal or state auditors and will be returned upon completion of the evaluation.

The program regulations containing the audit requirements indicate that the audit is to be performed by the institution or at the institution's direction. This has been interpreted to mean that the internal audit staff of the institution may perform the audits as long as the staff meets the independence and qualification standards contained in the publication "Standards for Audits of Governmental Organizations, Programs, Activities and Functions". On selected audit reports issued by internal audit staff's, the audit agency in addition to reviewing the audit working papers will review the organizational structure of the internal audit office and the credentials of the staff to determine if the Internal Auditors are sufficiently independent and qualified to perform the audits.

Whenever evaluations of the audit report and/or working papers disclose inadequacies, the audit firm will be contacted for corrective action. Where major inadequacies are not corrected and the HEW Regional Audit Director determines that the audit report and working papers are substandard, all documentation will be forwarded to the HEW Audit Agency Headquarters for further evaluation and action, as appropriate. In those instances where the audit was performed by a CPA, and the issue cannot be resolved by Headquarters, the matter may be submitted to the AICPA for consideration by the Professional Ethics and State Legislation Division.

Audit working papers for NDSL, CWS and SEOG Programs must be retained for five years after submission of the audit report. If the auditor has been advised that any litigation, claim, negotiation, audit or other action involving the program records has been started before the expiration of the five-year period, the audit working papers shall be retained until completion of the action and resolution of all issues which arise from such action, or until the end of the five-year period, whichever is later.

## CHAPTER 2: PRELIMINARY PROCEDURES

### 2.1 AUDIT ENGAGEMENT

A letter of engagement between the institution and the independent public accountant shall be prepared. (See Appendix C for suggested format.) Unless specific audit limitations are contained in the letter of engagement, the scope of audit and the final report must meet the requirements of this audit guide. Omissions of specific sections of this guide must be cleared with the cognizant HEW Regional Audit Director. (Also see paragraph 2 of Section 1.1 of this guide.)

If an independent accountant or auditor accepts an engagement incorporating this audit guide and the requirements provided herein are not followed, this fact and the reasons therefore must be disclosed in the audit report.



Even though the contractual relationship is between the institution and the independent public accountant, we believe that since the Federal Government provides the funds for the NDSL, CWS and SEOG Programs, the client-accountant relationship includes the Department of Health, Education, and Welfare. Therefore, any audit information relative to Federally funded Student Aid Program's activities reported to the institution in the form of a "Management Letter" must also be reported to HEW in the audit report.

## 2.2 PREPARATION FOR AUDIT

Authority for audit of the NDSL, CWS and SEOG Programs is contained in Section 497A(a) (1) of the Higher Education Act, as amended by Public Law 94-482, Part D, Section 133, which states in part:

". . . Notwithstanding any other provisions of this title . . . the Commissioner of Education is authorized to prescribe such regulations as may be necessary to provide for . . . a fiscal audit of an institution with regard to any funds obtained by it under this title . . ."

The Commissioner of Education prescribes the following as it relates to non-Federal audits:

"All of an institution's transactions involving its [CWS/NDSL/SEOG] funds shall be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs, and shall be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the size and complexity of the activity of the program."

Although it is desirable that all programs be reviewed at the same time and one audit report issued, it is not required that all programs be reviewed concurrently.

Specific references may be found in Section 175.28(d) of the College Work-Study Program regulations; Section 144.18(d) of the National Direct Student Loan Program regulations; and Section 176.23(d) of the Supplemental Educational Opportunity Grants Program regulations. The regulations also state:

"The Audit Agency and the Commissioner shall also be given access to records and other documents as may be necessary to review the results of such audits."

To audit the NDSL, CWS, and SEOG Programs, the auditor must become familiar with the conditions and requirements related to the Terms of

Agreement Covering Institutional Participation in Programs of Student Financial Aid (sample - Appendix C) executed between the Commissioner of Education and an authorized official of the institution. The auditor should:

- Obtain from the institution and review pertinent documents. Generally, these will include:
  - Notice of eligibility to participate in programs issued by U.S. Office of Education's Division of Eligibility and Agency Evaluation;
  - The institution's application to participate in the programs (OE Form 1036);
  - An executed copy of the Terms of Agreement;
  - An executed copy of Notification of Grant Award Letters, plus any amendments, (Sample - Appendix) which establishes the approved level of funding for the period under audit;
  - Copies of the Office of Education Program Reports OE Form 1152-2, OE Form 1152-3, and OE Form 1152-4 (current and prior year) and the instructions thereto;
  - Copies of the program handbook and any other current OE instructions or program regulations not attached herewith.
- Review correspondence contained in the institution's program file for indications of problem areas.

### 2.3 INITIAL FIELD AUDIT PROCEDURES

In initiating site audit work, the auditor should:

- Obtain background data on the nature of the institution's overall operations and key staff. Documents such as the institution's charter, by-laws, staff, and organizational structure may prove helpful;
- Develop an understanding of the institution's accounting, personnel, and self-evaluation systems as they relate to the student financial aid programs. The auditor should obtain and review the institution's policies and procedures governing these systems. These systems should be surveyed to identify any significant weaknesses;

- Obtain a copy of the most recent annual audit report issued on the institution. Review for indications of problems which relate to student financial aid programs; and
- Obtain copies of the most recent audit report and program review reports on the student financial aid programs issued by HEW Audit Agency, Office of Education, other Federal or state agencies, or other independent auditors. Procedures under this guide (see Section 3.21) require a follow-up of the most recent audit findings to determine whether the institution took corrective action. This should include any additional findings recommendations presented in the HEW Audit Agency transmittal letter of the report. Also, any correspondence issued by BSFA in its audit resolution efforts.

#### 2.4 REFERENCE MATERIALS

The publications listed below should be used for verification and reference purposes in auditing the NDSL, CWS and SEOG Programs. Sources for these materials are identified below. The auditors should use the most current reference material applicable for the period(s) under audit.

- 45 CFR 144 - National Direct Student Loan Program  
Volume 41, No. 228 -- Wednesday, November 24, 1976.  
(See APPENDIX F of this guide).
- 45 CFR 176 - Supplemental Educational Opportunity Grants Program  
Interim regulations; published in Federal Register, Volume 41,  
No. 228--Wednesday, November 24, 1976. (See Appendix G of this  
guide.)
- 45 CFR 175 - College Work Study Program; Issuance of Guidelines;  
published in Federal Register, Volume No. 41, No. 171; Wednesday,  
September 1, 1976. (See Appendix H of this guide.)
- 1977-78 Student Financial Aid Handbook -- BEOG, SEOG, NDSL, CWS,  
and GSL Programs. (Source: Office of Education, Bureau of  
Student Financial Assistance, P.O. Box 84, Washington, D.C.  
20044)
- Student Loan Collection Procedures National Association of  
College and University Business Officers (Source: NACUBO,  
One Dupont Circle, Suite 510, Washington, D.C. 20036;  
Price \$10.00 if not an NDSL participant. NDSL participant  
no charge).

#### OTHER HELPFUL REFERENCES

- Brochure on Audit Standards: Standards for Audit of Government Organizations, Programs, Activities & Functions by the Comptroller General of the United States, 1972 (1974 reprint) and GAO Supplements (SOURCE: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402--Publication No. 2000-00110)
- AICPA Professional Standards, Volume I (Source: American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York, 10036)
- Office of Management and Budget Circular, OMB A-73; Audit Federal Operations and Programs by Executive Branch Agencies (Source: Office of Management and Budget, Washington, D.C.)
- Suggested Accounting Procedures Booklet: Accounting, Recordkeeping, and Reporting by Colleges and Universities for Federally Funded Student Financial Aid Programs, (the "Blue Book") (Published 1977) (Source: Basic Grants Training Project, 910 - 17th Street, N.W., Suite 617, Washington, D.C. 20006)
- Auditing Standards Established by GAO; Their Meaning and Significance to CPA's, American Institute of Certified Public Accountants, 1973. (Source: American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York, 10036)
- Institutional Guide for Financial Aid Self-Evaluation, NASFAA, (Undated) - (Source: Central Office and Placement Service, 910 Seventeenth Street, N.W., Suite 228, Washington D.C. 20006).

## CHAPTER 3: REQUIREMENTS FOR PERFORMING AND REPORTING AUDITS

### 3.1 GENERAL

The audit shall cover the Institution's NDSL, CWS and SEOG Program operations for the period applicable to the most recently expired Notification of Grant Award Letter (normally July 1 through June 30) unless a different audit period is specifically approved in the auditor's Letter of Engagement (sample--Appendix C). The auditor must perform sufficient tests of the institution's program accounts, including a confirmation of student participation and amounts received in order to express an opinion (unqualified, qualified, adverse, or disclaimer of an opinion) on the financial statements; and reach conclusions on the compliance aspects of the operation of the NDSL, CWS and SEOG Programs at the institution. The footnotes to the financial statements and supplemental NDSL schedules must include a statement as to whether the amounts reported agree with the figures reported on the Office of Education's Fiscal-Operations Reports OE Form 1152-2, OE Form 1152-3, and OE Form 1152-4. If not in agreement, a schedule reconciling the two reports must be submitted as a supplemental schedule in the audit report.

Some of the audit steps listed, particularly the review of the internal controls, accounting systems and funding, may have already been performed by a CPA firm, state or local government audit agency or other independent auditors in connection with the annual audit of the institution's financial statements. In such event, it may not be necessary to perform all the audit steps contained in the audit guide if the auditor has satisfied himself/herself as to the extent of reliance on the work performed after thoroughly reviewing the financial reports and the other auditor's related workpapers. The NDSL, CWS and SEOG workpapers should specifically identify steps not performed and include sufficient explanatory data to support the limited scope. However, if the annual audit identifies weaknesses that relate to the NDSL, CWS, or SEOG Programs, any work necessary to determine the impact on the financial statements should be performed and the weaknesses should be reported in the audit report.

Where the auditor's tests are based on the use of statistical sampling, the auditor will apply such standards generally used by the audit firm on non-Federally associated engagements. (Refer to SAS No. 1, Section 320A) Guidance on precision and reliability for statistical sampling in auditing is provided also by the AICPA. (Refer to SAS No. 1, Section 320B).

The auditor will report whether expenditures claimed on OE Fiscal-Operations Reports 1152-2, 1152-3, 1152-4 for period under audit are presented in accordance with the accounting practices prescribed by the Department of Health, Education and Welfare for these programs and the compliance requirements of these programs or recommend adjustment(s) where there is insufficient basis for accepting expenditures, e.g.,

funds awarded to student not eligible to participate in the program or funds awarded in excess of financial need, or funds used for unauthorized purposes. The auditor will discuss in the audit report, in sufficient detail, each significant condition (audit finding) which does not meet the legislative or regulatory requirements of the NDSL, CWS and SEOG Programs and/or terms of the agreement which are set forth in this guide. The auditor will indicate the cause and effect of each condition reported and include specific recommendations for corrective action and for improvement in program operations. The independent auditors' working papers should be prepared in a manner to meet criteria set forth in the AICPA's Statement of Auditing Standards, No. 1, Paragraph 338.05, and the standards for governmental auditing "Working Papers", page 37. If the accountant's report "Auditors Conclusions on Internal Accounting and Administrative Controls and Compliance Information" is qualified, the auditor must consider whether or not the nature of the qualification is such as to effect his/her opinion on the auditor's report of the Financial statements.

Amounts questioned by the auditor do not necessarily mean that these costs will be disallowed. The final determination as to the allowability of costs will be made by Office of Education, BSFA officials.

In those situations where the auditor determines that the books and records are not auditable, the auditor should defer further work under the audit engagement and consult with the appropriate Regional Audit Director for specific instructions.

This chapter presents requirements for performing and reporting on an audit of the three programs. Audit objectives, reference materials, and general audit procedures are set forth for each area of audit coverage required. The general audit procedures must be completed to meet minimum audit requirements.

### 3.2 FINANCIAL AUDIT

#### 3.21 INTERNAL CONTROLS

##### General Considerations

An effective system of internal controls comprises all coordinated methods and measures adopted by the institution to safeguard its assets, check the accuracy and reliability of accounting data, promote operational efficiency and encourage adherence to prescribed management policies and procedures.

Generally accepted auditing standards for field work (AICPA Statement on Auditing Standards, Section 150) require that:

"There is to be a proper study and evaluation of the

existing internal control as a basis for reliance thereon and for the determination of the resultant extent of the tests to which auditing procedures are to be restricted."

The study of the system of internal control is normally considered to have two phases. The AICPA Statement on Auditing Standards describes these phases as:

- Review of the System, which is primarily the process of obtaining information about the organization and the procedures prescribed and is intended to serve as the basis for tests of compliance and for evaluation of the system.
- Tests of Compliance, which are made to provide reasonable assurance that the accounting control procedures are being applied as prescribed. (Reference section 3.3 of this guide).

### Objectives

To determine what internal controls are present; to make a preliminary evaluation as to the adequacy of these controls; and to determine the degree of reliance that can be placed on internal controls, subject to tests of transactions to verify the effectiveness of these controls, to assure compliance with HEW's policies and procedures.

### References

- AICPA Statement on Auditing Standards: Section 320  
--The Auditor's Study and Evaluation of Internal Control
- AICPA Statement on Auditing Standards: Section 640  
--Reports on Internal Control
- AICPA Statement on Auditing Standards: Section 641  
--Reports on Internal Control Based on Criteria Established by Governmental Agencies
- AICPA Statement on Auditing Standards: Section 509  
--Reports on Audited Financial Statements
- AICPA Statement on Auditing Standards: Section 321  
--The Effects of EDP on the Auditor's Study and Evaluation of Internal Control

## General Audit Procedures

- o The auditor should review the system of internal controls applicable to the NDSL, CWS and SEOG Programs and determine whether the institution has written policies and procedures and that they provide for appropriate separation of responsibilities and control over:

### NATIONAL DIRECT STUDENT LOAN PROGRAM

- the receipt and disbursement of cash;
- the granting of loans;
- the payment of administrative expenses;
- the collection of loan principal and interest;
- the payment of litigation costs;
- the cancellation of loans - partial or complete;
- the amount and payment of capital contributions - Federal and institutional;
- the recording of transactions to asset, capital, revenue, and expense accounts.

### COLLEGE WORK-STUDY PROGRAM

- the receipt and disbursement of cash;
- the payment of wages;
- the payment of administrative expenses;
- the recording of transactions to the general ledger control accounts;
- the payment of institutional matching funds; and
- the operations of the off-campus agencies e.g., preparation of time sheets, payroll records, signature authorization cards.

### SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

- the funding of the SEOGP,



- the payment of SEOG awards -- initial year and continuing year;
- the recording of transactions to the general ledger control accounts;
- the payment of administrative expenses; and
- the appropriate matching of the SEOG.

GENERAL

- Coordination activities of the admissions office, the business office and the student aid office, as they relate to the administration of the student financial aid programs.
- Are administrative files up-to-date and containing:
  - \* Institution's copy of Terms of Agreement?
  - \* Notification of review action on institution's application(s) and appeals?
  - \* Program allocation letter?
  - \* Program Reports?
  - \* Laws, including the Education Amendments.
  - \* Current Regulations on each program.
  - \* NDSL list of designated low income schools published in the Federal Register.
  - \* Student Financial Aid Handbook 1977-78 (BEOG, SEOG, NDSL, CWS and GSL Programs)
  - \* Student Loan Collection Procedures NACUBO, May 6, 1977.
  - \* Institutional Guide for Financial Aid Self-Evaluation, NASFAA, or similiar self-evaluation studies.
- o Lack of written procedures or lack of adequate controls should be noted and recommendations for improvements should be included in the audit report. Comments on internal controls should be prepared in accordance with Section 640 and 641 of the Statement of Auditing Standards.

- The auditor will consider the results of the review of the system of internal controls in determining the extent of testing needed to evaluate the effectiveness of the established procedures. The auditor should comment on any weaknesses in internal controls and recommend needed improvements.
- The auditor shall review the most recent audit report and the HEW Audit Agency transmittal letter on student aid programs and note any findings reported; ascertain whether corrective action was taken by the institution; and comment on actions needed to strengthen the institution's system for acting on audit findings. Current findings should indicate whether similar deficiencies were previously reported.

### 3.22 ACCOUNTING SYSTEM

#### Objective

To determine whether the institution's accounting for the NDSL, CWS and SEOG funds is supported by a system that is designed to fairly, and timely disclose the financial results of grant performance in accordance with Federal reporting requirements.

#### References

- 45 CFR 144: Section 144.18 - NDSL--Fiscal Procedures and Records
- 45 CFR 175: Section 175.28 - CWS--Fiscal Procedures and Records
- 45 CFR 176: Section 176.23 - SEOG--Fiscal Procedures and Records
- Accounting, Recordkeeping, and Reporting by Colleges and Universities for Federally Funded Student Aid Programs, 1977 (the "Blue Book")

#### General Audit Procedures

- Based on the results of the review of internal controls and tests of the accounting records, determine whether the institution's accounting system includes the procedures necessary to:
  - Identify individually all receipts and disbursements of NDSL, CWS and SEOG Program funds separately from other grants and contracts;
  - Accumulate and record disbursements by academic period and by activity account, e.g., Salary and Wages - on campus, off campus; administrative expenses;

- Identify payments directly to students by check or by a credit to the student's account for tuition, fees, and room and/or board;
  - Accumulate and record refunds due to students and/or program fund account; and
  - Accumulate and record NDSL non-cash cancellation transactions.
- ° Comment on any weaknesses in the accounting system as related to the three programs and recommend needed improvements.

### 3.23 STUDENT FILE MAINTENANCE

#### Objective

To determine whether the institution maintains acceptable program and student records which reflect all transactions with respect to student financial aid program funds.

#### References

##### Fiscal Procedures and Records

- ° 45 CFR 144: Section 144.18 - NDSL
- ° 45 CFR 175: Section 175.28 - CWS
- ° 45 CFR 176: Section 176.23 - SEOG

#### General Audit Procedures

- ° Determine whether the institution maintains documented records with regard to:
  - The identification of each student account and the current status thereof; e.g. enrollment, awards, refunds due;
  - The eligibility or lack thereof, of all students enrolled at the institution who have applied to the institution for student financial aid;
  - The amount of financial need determined for each student and the way that need has been met;

- The amount of such grants/loans that were awarded and to whom;
  - The name of the institutional officer who made the determination of the amount of the financial need;
  - The amount and date of disbursements of grants, advances, or earnings to students;
  - The payment of student earnings under the CWS Program in the form of services and equipment;
  - The amount and date of any overpayments of awards that have been restored to the program account; and
  - The amount and date of refunds made to the program accounts for students who withdraw or fail to pursue their course of study at the institution.
- o Determine whether the institution's procedures provide for retention of its NDSL, CWS and SEOG Programs records for a minimum of 5 years after the date of the submission of the annual Institutional Fiscal-Operations Report, as prescribed by Sections 144.18 (c) (2), 175.28 (c) (2), and 176.23 (c) (2).

Special Considerations are as follows:

- Audit questions--The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions--Sections 144.18(c) (5), 175.28(c) (4), and 176.23(c) (4).
  - Loan Records--An institution shall retain all financial and repayment records pertaining to any individual loan made under the NDSL Program for not less than 5 years from the date on which the entire amount of the loan has been repaid, cancelled, or assigned in accordance with pertinent provisions of the NDSL Program--Section 144.18(c) (3).
- o Determine whether the institution properly safeguards its NDSL promissory notes and student loan ledgers. The documents shall be maintained in good order in a locked fireproof container. Only authorized personnel shall have access to these documents; Section 144.18(g).

### 3.24 PROGRAM FUNDING

#### General Considerations

Advances of HEW funds to participating institutions are arranged through the Departmental Federal Assistance Financing System (DFAFS). Receipt of an Official Notification of Grant Award from OE provides the institution with an authorization for NDSL, CWS, or SEOG Program funds. A copy of the grant award authorization is sent to the DFAFS management. This authorization becomes a part of the bases (combined grant authorizations) that establishes the fund ceiling against which the institution can draw funds for financing all of its HEW programs. One of two methods, the Letter of Credit or the Cash Request System, is used to provide NDSL, CWS and SEOG funds to an institution.

The letter-of-credit method allows the participating institution to draw funds, on an "as needed" basis up to a prescribed ceiling, from the Federal Reserve System through the institution's local commercial or Federal Reserve bank. Accounting and reporting procedures for a letter of credit are established through special arrangements with the DFAFS management.

Many of the participating institutions receive program funds by the Cash Request System. Under this system, the institution is permitted to draw funds, up to a prescribed ceiling, on a monthly basis. Institutions using this method submit a Grantee's Monthly Cash Request to DFAFS to cover estimated cash expenditures for all HEW awards. Upon receipt of the monthly request, payment by U.S. Treasury check is made to the institution during the first week of the request month. Quarterly reports of expenditures and cash reconciliation statements are required by DFAFS.

Currently, DFAFS funds provided are not identified to each specific program at the recipient institutional level at the time of the cash advance. Therefore, all HEW funds provided, generally, will be recorded in the "Cash Control, DFAFS" account. All receipts and disbursements of cash related to the NDSL, CWS or SEOG Programs should be recorded in the "Appropriate Program Cash" account, e.g., "Cash NDSL." Transfer of cash from the DFAFS account to the CWS or SEOG cash account should be made only in the precise amount needed to pay approved expenditures on a current basis. Since normally the SEOG and CWS Programs grant funds are to be used only during the grant period, no cash balances should be maintained in the CWS and SEOG cash account. Any excess at the end of the grant period should be transferred to the "Cash Control, DFAFS" account for all HEW funds. Because the NDSL Program operates on a revolving fund concept it is permissible to maintain a cash balance in the "NDSL cash account."

## Objectives

To determine that advanced funds transferred from the "Cash Control, DFAFS" account to the "Cash, CWS, or SEOG" accounts (or similar accounts) were accounted for properly and were requested as closely as possible to the time program disbursements were made.

## References

- 45 CFR 175: Section 175.28 - CWS - Fiscal Procedures and Records
- 45 CFR 176: Section 176.23 - SEOG - Fiscal Procedures and Records
- Accounting, Recordkeeping, and Reporting by Colleges and Universities for Federally Funded Student Financial Aid Programs, 1977 (the "Blue Book")

## General Audit Procedures

- Request a copy of the Notification of Grant Awards authorization and any amendments; the institution's payment vouchers (letter of credit) or requests to DFAFS for advances of Federal funds (cash demand); the institution's transfers from the "Cash Control, DFAFS" account to the "Program, Cash" account (or similar accounts); and the OE Fiscal-Operations Reports, OE Form 1152-3, and OE Form 1152-4 for the funded period under audit. Comment on problem areas, if any, as related to the following:
  - Compare the total amount of grant award authorizations for the CWS and SEOG Programs to the amount of cash actually used by the institution in administering the CWS and SEOG Programs during the current grant period; to determine if the institution had unexpended authorizations (did not utilize all of the funds authorized) or expended an amount in excess of current authorization. Whenever the institution has expended an amount in excess of current authorizations, a comment must be made in the section "Findings and Recommendations - Financial" of the audit report showing the dollar amount of the expenditure. Whenever, the institution has unexpended authorizations the amount will be shown on the appropriate financial statement "Statement of Changes in Fund Balance".

--Compare, by monthly totals, the funds transferred from the "Cash Control, DFAFS" account to the "Cash, CWS, and SEOG" accounts with the amount expended from the "Program Cash" accounts (except for repayments to the control account) and determine whether excess funds were maintained in the program cash accounts for the period applicable. Funds in the CWS and SEOG accounts should not exceed the minimum amount required to finance current disbursements. Where the institution is on the Cash Request System, the amount of cash in the accounts should not exceed one month's need. Where the institution is on the Letter-of-Credit system, the amount of cash in the accounts should be as close to daily needs as administratively feasible.

The Treasury Department considers any balance in excess of weekly disbursement needs (5 working days) to be excessive. The method employed by the Treasury to determine daily cash needs is to divide semiannual disbursements by 130 working days. In general, the larger the annual amount of advance needed in the CWS and SEOG accounts, the more frequently individual cash transfers should be made to meet current program disbursement needs. If excess funds are being maintained the auditor should assure that funds are being accounted for and include comments in Part III, "Findings and Recommendations - Financial" of the audit report.

The audit procedures relating to excess cash funds for the NDSL program are discussed in section 3.43 of the guide.

(Note: Ideally, the above audit procedures can be performed at smaller institutions where the only sources of Federal funds are the student financial aid programs. At many larger institutions, however, it may be impractical for the auditor to complete this step because of the number and dollar magnitude of an institution's Federal programs. If, after assessing the extent of the institution's participation in Federal programs, the auditor feels that performance of this step would be impractical, the reasons behind the decision should be documented in the workpapers. A qualifying statement in the "Scope of Audit" section in the report should also be added.)

--Determine that all funds received by the institution for the NDSL, CWS and SEOG Programs are fully accounted for. In performing this audit procedure, prepare an "Analysis of NDSL, CWS, and SEOG Funds" for the period under audit. A suggested format for this worksheet is as follows:

Analysis of NDSL, CWS and SEOG Funds  
For Period July 1, 1977 through June 30, 1978

Source of Funds:

Beginning Cash Balance (Federal and Institutional Share)

NDSL -	5,000	
CWS -	-0-	
SEOG -	<u>-0-</u>	\$5,000

Plus Net Transfers from "Cash Control DFAFS" account  
to Program Cash Accounts (Federal Share)

NDSL -	\$200,000	
CWS -	50,000	
SEOG -	<u>27,597</u>	\$277,597

Institutional Matching Share

NDSL -	22,222	
CWS -	<u>11,000</u>	\$ 32,222

Reprogrammed Funds

NDSL-Sustained Audit Adjustments	10,000	
Program Refunds	<u>5,000</u>	\$ 15,000

Collections under NDSL Program	<u>\$ 8,000</u>
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Total NDSL, CWS, and SEOG Funds Available for Period	<u>\$338,819</u>
------------------------------------------------------	------------------

Funds Applied (Federal and Institutional Share)

NDSL Loans (Total) -	220,000	
CWS Salaries & Wages		
(Total)	55,000	
SEOG Grants	<u>25,000</u>	\$300,000

Allowable Federal Administrative Costs	<u>12,000</u>
----------------------------------------	---------------

Total Funds Applied During Period	<u>\$312,000</u>
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Balance - Total NDSL, CWS, and SEOG Funds in Program Cash Accounts  
as of June 30, 1978

\$ 26,819

NDSL - \$ 26,819

CWS - -0-

SEOG - -0-

(NOTE: Numbers are presented for illustrative purposes only and do not relate to the examples in the financial statements included in the back of this guide.)

- Determine whether the balance of funds in the program cash account can be accounted for in bank accounts.
- If the funds are not in the bank account, determine source of funds, and/or disposition. If funds were used for purposes other than intended by the program legislation e.g. used for general operating expense of institution, determine the nature of the activity and report the status of such funds under Part III, "Finding and Recommendations - Financial" of the audit report.

In those situations where the balance of funds in the cash account cannot be traced to bank accounts or funds were used for unauthorized purposes the auditor should, consider their implications and bring the matter to the attention of the appropriate Regional Audit Director. Whenever a problem exists in this area, the analysis of cash schedule should be included as a supplementary schedule to support the finding in the auditor's report.

### 3.25 RECONCILIATION OF ACCOUNT BALANCES

#### Objectives

To determine whether the amounts shown in the Institution's accounts agree with (i) the information reported on the June 30, OE Fiscal-Operations Report OE Form 1152-2, OE Form 1152-3 and OE Form 1152-4; and (ii) the Recipient Report of Expenditures by DFAFS Document Number (DFAFS Form No. 27). Also determine whether monthly cash reconciliations are being performed.

#### References

- ° Fiscal Procedures and Records
- ° 45 CFR 144: Section 144.18(b)(1)(2) NDSL
- ° 45 CFR 175: Section 175.28(b)(1)(2) CWS
- ° 45 CFR 176: Section 176.23(b)(1)(2) SEOG
- ° Accounting, Recordkeeping, and Reporting by Colleges and Universities for Federally Funded Student Financial Aid Programs, 1977 (The "Blue Book")

#### General Audit Procedures

- ° Secure trial balances as of June 30 of the accounts maintained by the institution for its NDSL, CWS and SEOG Programs. The amounts reported on the appropriate June 30, Fiscal-Operations Report should agree with applicable account balances. All differences should be reconciled. Any unreconcilable differences should be discussed in Part III of the audit report.

The recommended accounting procedures included in Accounting, Recordkeeping, and Reporting by Colleges and Universities for Federally Funded Student Financial Aid Programs, 1977 (The "Blue Book") provides an explanation of the entries to control accounts included in the list of recommended general ledger accounts to be maintained by the Institution. In analyzing the account balances, it is recommended that the guidance suggested in this publication be used as references in resolving questionable charges or credits to the accounts.

If an account titled, "Funds Receivable Institution" is maintained and had activity during the year, an explanation should be included in the audit report as to the nature of the receivable. If the receivable

occurred because the institutional share was not deposited timely, a Finding and Recommendation should be developed and presented in Part III of the audit report.

Also the receivable account may be an indication that the funds are being used for general operating expenses of the institution, loans to institutional officials, or other unauthorized purposes. If this situation exists the auditor should consider their implications and notify the appropriate Regional Audit Director.

- Review the institution's Fiscal-Operations Report Part II of OE Form 1152-2, - NDSL, OE Form 1152-3 - SEOG and OE Form 1152-4 - CWS to ensure that the report was submitted timely, is complete and presents fairly the information set forth therein.
- Review the Institution's policies, procedures, and practices for reconciliation of the "Cash, NDSL, CWS and SEOG" accounts with the "Cash Control, DFAFS" account. On a selective basis, examine the monthly bank reconciliations performed. Comment in the audit report on weaknesses noted and make recommendations for improvement, as appropriate.

### 3.26 VERIFICATION OF STUDENT PARTICIPATION

#### Objective

To determine through outside confirmation that students who participated in the programs, actually received the amount of the award reported by the Institution and were in attendance for the period.

#### References

- Fiscal Procedures and Records
- 45 CFR 144: Section 144.18(b)(1) - NDSL
- 45 CFR 175: Section 175.28(b)(1) - CWS
- 45 CFR 176: Section 176.23(b)(1) - SEOG

#### General Audit Procedures

- By the direct communication method (personal interviews or written correspondence), obtain confirmation from NDSL borrowers, CWS wage earners and SEOG grant recipients (on a sampling basis) to verify (1) the period of student's participation, (2) attendance and (3) the amount of the

SEOG grant awarded, NDSL loan balance and CWS salary earned. The auditor shall use positive confirmations and the results of the confirmations should be documented in the auditor's working papers and be included in Part II or III of the audit report. Regarding the audit reports, the scope of work described in the audit report should contain a statement on student confirmations; size of sample, number of returns, number of no returns, number of differences noted with explanation as to cause. Where such verifications are determined to be impractical or impossible, the auditor will discuss the problems and reasons therefore with the HEW Regional Audit Director (See Appendix A) and will be so noted in the working papers and the audit report. Where approval is given not to perform these verifications, the auditor should perform additional audit work to obtain evidence necessary to satisfy himself/herself as to student participation, amount of funds awarded, and attendance. In the absence of such evidence the auditor should so note in the audit report and consider disclaiming an opinion.

### 3.27 ADMINISTRATIVE COST ALLOWANCES

#### General Considerations

An institution may be reimbursed for each award period during which it provides financial aid from campus-based programs to eligible students, for the cost of providing services under the Student Consumer Information Services and for the cost of administering all Title IV programs or a portion thereof. The cost allowance is payable from the funds authorized for use in the Supplemental Educational Opportunity Grants and College Work-Study Programs and the cash available in the National Direct Student Loan Fund and is in an amount up to 4 percent of:

- the amount of funds advanced to students under the National Direct Student Loan Program during the award period;
- the total compensation earned by students (both the Federal and institutional shares) employed under the College Work-Study Program, including both on-campus and off-campus jobs during the award period; and
- total awards paid to students under the Supplemental Educational Opportunity Grants Program during the award period.

The aggregate amount which may be reimbursed to the institution from all campus-based programs for the cost allowance may not exceed \$325,000 for any award period.

- Title I of the Education Amendments of 1976, Public Law 94-482, mandated Student Consumer Information Requirements that provide that consumer information must be provided upon request to students and prospective students by colleges and universities. The law established rules and procedures whereby institutions of postsecondary education which receive an administrative cost allowance because of participation in any of the three Federal financial aid programs must make certain student aid information available to any enrolled or prospective student who requests such information.

Summary of the materials required and other provisions of the rules follows:

- any administrative allowances received for participation in any of the three Federal student aid programs must first be used for student consumer information services. Any remaining funds must be used to administer the Title IV student aid programs.

- Institutions must provide information about available financial assistance including the above five programs as well as their own and state programs. Application forms and instructions for filling them out will be part of the service. Also, information will be provided on cost of attendance, refund policy, student eligibility, and the criteria used by the institution to select financial aid recipients and determine award amounts.
- Institutions must prepare for distribution a statement of the rights and responsibilities of students receiving funds under the above grant and loan programs, descriptions of academic programs, and figures showing the percent of students having completed a particular course of study if the figures are available.
- Each institution must have an employee or group of employees available on a full-time basis to assist all students in obtaining information. However, the requirement may be waived by OE for an institution too small to need such a full-time employee.

#### Objective

To determine whether the institution claimed the correct amount of administrative cost allowance on each program and that procedures have been established to comply with the Student Consumer Information Requirements.

#### References

- ° 45 CFR 178 - Student Consumer Information Service
- ° 45 CFR 144.17 NDSL - Administrative Expense
- ° 45 CFR 176.22 (b) SEOG - Use of funds
- ° 45 CFR 175.27 (b) CWS - Use of funds

#### General Audit Procedures

- ° Determine that the total charges for administrative cost allowance for the period from July 1 through June 30, did not exceed:
  - 4 percent of the total amount of National Direct Student Loans advanced.
  - 4 percent of the gross compensation including the institution's share, to students working in the College Work-Study Program, whether on-campus or off-campus.
  - 4 percent of the amount actually spent for SEOG awards to students.

- ° Determine that the total amount drawn by the institution for administrative cost on the NDSL, CWS and SEOG Programs did not exceed the maximum amount allowable of \$325,000.
- ° Determine if the institution has complied with the Student Consumer Information Service requirements described in the regulations, reference 45 CFR 178.3, 178.4, and 178.5.
- ° On those institutions which received an administrative cost allowance, determine the total amount of the administrative cost allowance used to carry out the Student Consumer Information Services. and the total amount used to administer all Title IV programs. A schedule showing the total funds expended by cost category should be included as an exhibit to the audit report, See Schedule 4.

### 3.28 FEDERAL AND INSTITUTIONAL CONTRIBUTIONS

#### Objective

To determine that the Federal share of the NDSL and CWS Programs funds did not exceed the authorized amounts and that the institutional contributions were timely and in the proper amounts.

#### Reference

CFR 144.8 (b) (1) and (2) NDSL - Institutional Agreement

CFR 175.8 (a) (6) CWS - Institutional Agreement

#### General Audit Procedures

##### National Direct Student Loan Program

- ° Review the capital contributions deposited in program cash accounts and determine whether:
  - Federal funds requested from DFAFS was properly identified for use in this program and were within the amounts authorized in NDSL award letters from OE.
  - The institution's funds deposited were equal to one-ninth of the total Federal funds deposited into the NDSL loan fund, or that sufficient institutional funds were deposited in prior years to match properly all Federal contributions.
  - The institution's funds were deposited at the same time, if not earlier than the Federal funds were deposited.

##### College Work-Study Program

The Federal share of compensation of students employed in any College Work-Study Program shall not exceed 80 percent of such compensation for work performed.

- ° Review the funds expended during the period and determine whether:
  - the compensation of students under the program was in the proper Federal/institutional share.



- The institution's share of the compensation was provided from sources other than from Federal funds provided for this program.
- Federal funds provided for this program were not used to over-reimburse the institution for costs of the program. This audit step is applicable when an off-campus agency agrees to contribute more than the minimum required 20 percent institutional share. In this situation the Federal share of compensation should only be the amount needed when combined with the actually contributed share to equal 100 percent of the total compensation instead of the 80 percent.

(Note: If the institution's share of wages paid is in the form of services and equipment, such as room, board, tuition, books or fees, an acknowledgment by the student should be provided and the auditor should determine that the charges are normally levied against students attending the institution. The Federal share of wages must be paid to the students.)

### 3.29 MAINTENANCE OF LEVEL OF EFFORT

#### General Considerations

For each fiscal year for which the institution receives an allocation of funds under the College Work-Study Program or Supplemental Educational Opportunity Grants Program, it shall continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the three fiscal years preceding the latest of the following dates or fiscal years: (1) the effective date of the institutional agreement which was in effect on June 30, 1973, or (2) the fiscal year for which the institution receives or received its first allocation of funds under the CWS, SEOG or EOG Programs. The average total expenditures by the institution on its own scholarship and student aid programs will be reported in the annual application for funds (OE Form 1036).

#### Objective

To determine whether the institution has expended in its own scholarship and student aid programs an amount equal to the computed three year average.

#### References

45 CFR 175.25 Maintenance of Effort - CWS Program

45 CFR 176.20 Maintenance of Effort - SEOG Program

## General Audit Procedures

- Verify the amount reported to OE for Maintenance of Effort purposes and for each year audited, determine that this amount is equal to or in excess of the three-year average previously established for Maintenance of Effort.

### 3.3 and 3.4 COMPLIANCE AUDIT - GENERAL

#### General Considerations

The Comptroller General's "Standards for Governmental Auditing" provide for a review of compliance with pertinent legal and regulatory requirements. The standards on reporting require a statement in the audit report regarding major instances of noncompliance. For HEW's purposes, all instances of noncompliance, and any questioned costs in excess of \$100.00 should be developed and presented as findings and recommendations in the audit report. The less significant unreported items should be documented in the working papers and discussed with institutional officials for corrective action.

If the noncompliance items materially affects the fairness of the financial statements, consideration must be given to qualifying the auditor's opinion or not expressing one on the report. Guidelines on disclaimers and qualifications of opinions developed by the AICPA should be consulted if this question arises.

### 3.31 ELIGIBILITY OF PARTICIPATING INSTITUTION

#### General Consideration

An eligible institution is an institution of higher education, an area vocational school, or a proprietary institution of higher education. The institution must meet general requirements for institutional eligibility. The institution must be legally authorized within a state or jurisdiction to provide a program beyond secondary school. It must either be accredited by a recognized accrediting organization, be determined by the commissioner to be attempting to meet accreditation standards, or be able to provide letters from three accredited institutions stating that the applicant institution's credits will be accepted at the accredited institutions.

Proprietary schools must admit as regular students only those with a high school diploma or the recognized equivalent of such a certificate, and public and other non-profit schools must admit only students beyond the compulsory age of school attendance who can benefit from a postsecondary program. There are also requirements for minimum program length which depend upon the type of institution.

## Objective

To determine if the institution had met and continued to meet the requirements for eligibility to participate in the student financial aid programs.

## References

### NDSL Program

- 45 CFR 144.2(x) - Definitions - Institution of higher education
- 45 CFR 144.2(bb) - Definitions - Proprietary institution of higher education
- 45 CFR 144.2(z) - Definitions - Nonprofit schools

### CWS Program

- 45 CFR 175.2(c) - Definitions - Area vocational school
- 45 CFR 175.2(g) - Definitions - Institution of higher education
- 45 CFR 175.2(t) - Definitions - Nonprofit school
- 45 CFR 175.2(v) - Definitions - Proprietary institution of higher education

### SEOG Program

- 45 CFR 176.2(n) - Definitions - Institution of higher education
- 45 CFR 176.2(r) - Definitions - Proprietary institution of higher education

## General Audit Procedures

- ° Review the notice of eligibility to participate in programs issued by OE, Division of Eligibility and Agency Evaluation.
- ° For proprietary institutions of higher education, review the schools operations to gain assurance that:
  - Duration of the qualified programs of training are for six months or longer.
  - School admits into the qualified programs as regular students only persons having certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate.

- The school has been in existence for at least two years.
- ° OE has recently been alerted to the fact that eligible institutions are contracting with ineligible institutions or organizations to perform educational services. Therefore, in those situations, students are receiving Federal financial assistance to meet the costs of attending an ineligible institution. Whenever an institution contracts with another organization to perform educational services:
  - Obtain from the institution evidence that the organization meets the requirements for eligibility to participate in student financial aid programs set forth in the appropriate program regulations.

### 3.32 COORDINATION OF FEDERALLY ASSISTED STUDENT AID PROGRAMS

#### Objective

To test the (1) institution's system for coordinating assistance under the campus base programs with the institution's other Federal and non-Federal programs of student financial aid and (2) controls established to preclude the awarding of assistance in excess of a student's financial need.

#### References

- 45 CFR 144.14 - NDSL Program, Coordination of student financial aid programs, loan amount and over-award
- 45 CFR 176.14 - SEOG Program, Coordination of student financial aid programs, grant amount, and over-award.
- 45 CFR 175.14 - CWS Program, Coordination of student financial aid programs amount, and over-award

#### General Audit Procedures

- ° Determine if the institution appointed an official who has the responsibility of coordinating the various student assistance programs within the institution.
- ° Determine whether the institution has established procedures for coordinating assistance provided under all Federal student aid programs which require a showing of financial need with any assistance provided under the Basic Educational Opportunity Grant Program, the Guaranteed Student Loan Program, and other school-administered aid programs.

- ° Determine whether the students have received an amount in excess of their financial needs by examining the documentation relating to financial need on a representative sample of students participating in the student aid programs.
- ° Determine if the institution has controls which have been established for the purpose of precluding the awarding of assistance from all Federal and non-Federal sources in an amount in excess of the student's cost of education.

In view of the difficulty of precise need determination, OE does not consider awards of up to \$100 in excess of a student's predetermined financial need amount as being unreasonable. Consequently, OE would not require any financial adjustments when the financial aid received by a student under these programs exceeded his financial need by less than \$100.

OE has defined a student's financial need as the difference between the amount of money the student and his/her family can provide for an education and the cost of that education. The cost of education includes charges for tuition and related fees; room and board; books and supplies; and such personal expenses as transportation, clothing and laundry.

### 3.33 SELF-EVALUATION SYSTEM

#### General Consideration

NASFAA with the assistance of the Office of Education has developed a suggested self-evaluation system to be used by the institution to evaluate its practices and procedures followed in administering the student financial aid programs. The purpose of the self-evaluation system is to encourage institutions to provide continuous monitoring of its programs' activities, to assure that the programs are being operated in an effective, efficient and economical manner. OE does not specify how often the system should be reviewed, however, sound management practices would dictate that the system be reviewed at least annually. The checklist questions are, in general, worded in such a way that a "no" answer means that the institution is probably not applying the principles of due diligence in the particular area in question. The suggested system is contained in the publication "Institutional Guide for Financial Aid Self-Evaluation, NASFAA".

#### Objective

To determine if the institution has a self-evaluation system which enables them to provide continuous monitoring of its program activities.

## References

Institutional Guide for Financial Aid Self-Evaluation, NASFAA;

## General Audit Procedures

- ° Determine if the institution has established a self-evaluation system to monitor and evaluate the programs to ensure that their objectives are met.
- ° Determine the frequency of the self-evaluation reviews.
- ° Determine if the answers to the questions are complete. For those areas covered in the scope of audit, determine that they are consistent with the results obtained during the review.
- ° Determine if corrective action was taken on problem areas noted during the self-evaluation review.

## COMPLIANCE - NATIONAL DIRECT STUDENT LOAN PROGRAM

### 3.34 ELIGIBILITY OF BORROWERS

#### Objective

To test the institution's system for determining student eligibility for NDSL Loans.

#### Reference

45 CFR 144.9 Student eligibility

45 CFR 144.2(x) - Definitions - Institution of higher education

45 CFR 144.2(bb) - Definitions - Proprietary institution of higher education

45 CFR 144.31 Limitations governing aggregate amount of loans

#### General Audit Procedures

- ° Review the institution's system for determining student eligibility for NDSL loans. This system should provide for the institution's review of all NDSL loan applications to ensure (1) conformance with applicable eligibility requirements discussed in Section 144.9; (2) that student's applications are complete to the maximum extent possible; and

(3) that the information in the application was consistent with other grant or loan data on file at the institution, and the student was provided an opportunity to explain and/or rectify any apparent discrepancies when disclosed.

- ° Select a representative sample of student loan files and ascertain that the institution made a determination that the loan applicant:
  - Was in need of the amount of the loan to pursue a course of study at the institution;
  - Was accepted for enrollment or was enrolled in good standing as at least a half-time student;
  - Was capable in the opinion of the institution, of maintaining good standing in the selected course of study.
  - Was admitted as a regular student with a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; Reference Section 144.2;
  - Was enrolled in an eligible program as defined in Section 144.2(bb);
  - Was on record with the Institution as being a citizen or national of the United States or was in the United States for other than a temporary purpose and was, or intended to become, a permanent resident thereof; or was a permanent resident of the Trust Territory of the Pacific Islands;
  - Has filed with the institution a signed affidavit stating that the money attributable to such loan will be used solely for expenses related to attendance or continued attendance at the institution;
  - Did not receive loans in excess of the aggregate loan limit. Beginning July 1, 1972, the annual limitations were removed and the loans ceilings established at \$10,000 for graduate students (including undergraduate loans) and \$5,000 for undergraduates, with an upper limit of \$2,500 on loans to undergraduates during the first two years; Reference Section 144.31;
  - Provided an application that was complete to the maximum extent possible and included data consistent with other grant or loan data on file at the institution.
  - Was provided an opportunity to explain and/or rectify any apparent discrepancies when disclosed.

### 3.35 NOTE FORM AND EXECUTION

#### Objective

To determine whether the note form used by the institution conforms to the provisions recommended by the Office of Education and the promissory notes were properly executed.

#### Reference

- 45 CFR 144.32 Promissory note - loan repayment
- 45 CFR 144.34 Deferment of repayment
- 45 CFR 144.64 Appendix B - example of a promissory note
- 45 CFR 144.31 Terms of loans

#### General Audit Procedures

- Determine if the provisions of the institution's note conforms with the example set forth in Section 144.64, Appendix B - Promissory note;
- If the institution had deviated substantially from the provisions of the note in Appendix B, determine if the deviations were approved by the Commissioner of Education;
- Select a representative sample of notes and determine whether:
  - The notes were properly signed, dated and contain a permanent address;
  - a copy of the executed note was supplied to the borrower;
  - The required provisions are in the note:
    - Rate of interest, Reference Section 144.32(b);
    - Deferment of payments and interest, Reference Section 144.34;
    - Repayment terms, Reference Section 144.32(c);
    - Security and endorsement, Reference Section 144.32(g);
    - Assignment of notes, Reference Section 144.32(h)
    - Acceleration, Reference Section 144.32(i);
    - Costs of collection, Reference Section 144.32(j);
    - Schedule of advances, Reference Section 144.15
  - The amount of the note did not exceed the authorized limitations;
    - \$2,500 for first two years
    - \$5,000 for four years
    - \$10,000 graduate or professional students



### 3.36 INSTITUTIONAL DISBURSEMENTS TO NDSL RECIPIENTS

#### Objective

To test the effectiveness of the institution's disbursement procedures and practices for payment of advances to students.

#### References

45 CFR 144.15 Disbursement of loans

45 CFR 144.9 Student eligibility

#### General Audit Procedures

- Select a representative sample of advances to students from NDSL funds for audit tests for the period under audit. (The auditor may use the same sample selected for review of borrowers eligibility). Review and test the institution's disbursement procedures and practices for payment of advances to students from NDSL funds. On the sample selected determine whether:
  - the advances were properly recorded in the loan ledgers;
  - the advances were properly recorded on the promissory notes and each advance entered was signed by the student;
  - the checks evidencing the advances:
    - were made out in the name of the student borrower,
    - were endorsed in the student borrower's name, (Note: The auditor should be alert for any unusual second endorsements which come to his/her attention and satisfy himself/herself that they are not improper).
    - have cleared the bank.

(Note: The total amounts of checks to the borrower may not agree with the gross amount loaned to the student. Tuition, books, room and board, and other school related charges may be charged against the loan and the net amount paid by check to the borrower. If this procedure is followed, an acknowledgement by the borrower should be on file.)

- on payments other than direct disbursements to students, such as crediting student's account for tuition, room and board, determine that an acknowledgement by the borrower or other evidence is on file;
- periodic postings were made to the account Funds Advanced to Students;

- the institution made a determination that the student is enrolled as a fulltime, three-quarter time or half time student and is actually attending the institution, Reference Section 144.9(4).
- ° Determine that the institution made advances to the student borrower in equal installments in each semester, trimester, or quarter if such an academic period was used. If the institution was not utilizing such academic periods, determine that advances were made at least twice per academic year -- one advance at the beginning and the other at the midpoint.
- ° Ascertain whether the institution determined that the student met the following requirements prior to disbursing the loan advances.
  - Is maintaining satisfactory progress in the course of study he/she is pursuing, according to the standards and practices of the institution that the student is attending, Reference Section 144.9(a)(3);
  - Is not in default on any loan made from a student loan fund at the institution or on a loan made, insured, or guaranteed under the Guaranteed Student Loan Program for attendance at the institution, (Note: The definition of a defaulted loan is contained in the appropriate program regulations NDSL 45 CFR Part 144 and GSL 45 CFR Part 177); and
  - Does not owe a refund on Basic Grants previously received for attendance at the institution, the Supplemental Educational Opportunity Grants Program, or the State Student Incentive Grant Program. (See Appendix J, Proposed Regulations--BEOG May 15, 1978).

### 3.37 LOAN COLLECTIONS - DUE DILIGENCE

#### Objective

To determine if the institution exercises due care and diligence in administering the NDSL Program.

#### References

- 45 CFR 144.41 - Subpart C - Loan Collection - Due Diligence
- 45 CFR 144.41 - General
- 45 CFR 144.42 - Contact with the borrower prior to repayment period
- 45 CFR 144.43 - Billing procedures
- 45 CFR 144.44 - Skip tracing activities
- 45 CFR 144.45 - Collection procedure
- 45 CFR 144.47 - Utilization of fiscal agent

#### General audit procedures

- Select a representative sample of loans in current status and in default and determine if the institution has due diligence procedures which will ensure the collection of amounts due and payable to its fund. Include audit steps to test the extent of compliance with the following due diligence requirements.
  - Provide to all borrowers, not later than the time when they sign their promissory notes, full disclosure of their rights and obligations thereunder.
  - Conduct an exit interview with all borrowers prior to their leaving the institution. The exit interview may be conducted either on an individual basis (preferred) or in groups. During the exit interviews, borrowers shall be:
    - a. Provided a detailed explanation of their obligations and rights.
    - b. Provided with a copy of their repayment plan which covers the entire repayment period (normally a 10 year period).
    - c. Advised of their responsibility to inform the institution immediately of any change of address.
    - d. Advised of the full amount of their loan including the interest rate.

- e. Advised of the date and amount when the first payment becomes due (correct grace period 9 or 12 months).
  - f. Advised of their responsibility to contact the institution prior to the due date of any installment if payment cannot be made for any reason.
  - g. Advised of rights and procedures regarding postponement, deferment, or cancellation.
  - h. Advised of their rights to accelerate loan repayments without penalty.
  - i. Advised of any optional features of the note (minimum repayment, penalty charges, collection charges).
- Maintain a written record of the exit interview, including a repayment schedule (plan) signed by the borrower.
- If borrowers leave the institution without notice, the institution is required to mail the borrowers a copy of their note and two copies of their repayment schedule and shall request the borrowers to sign and return one of the copies of the repayment schedule.
- Maintain contact with borrowers after their leaving the institution in order to facilitate billing and to keep them informed of all changes in the program affecting their rights and obligations.
- The institution shall contact the borrower no less than three times during the nine month grace period, as follows:
- a. 90 days into the grace period
  - b. 180 days into the grace period
  - c. no less than 30 days preceding the due date of the first installment.
- Regular billing and follow up procedures must be established during the period in which any outstanding balance remains unpaid.
- An institution unable to locate a borrower in spite of its established billing and follow up efforts shall either engage the services of a commercial skip-trace organization or perform equivalent skip-tracing activities with its own personnel.

° An institution may utilize a billing service or collection agency in carrying out its loan collection practices. However, the ultimate responsibility for making decisions relative to the making and collection of loans and cancellation and deferment of loans must remain with the institution. This responsibility cannot be delegated. If a billing service is used to carry out the required billing procedures, the billing service may not deduct its fee from the funds it receives from borrowers.

--Review the contracts between the institution and the billing service and/or collection agency and ascertain that the institution:

- a. has not delegated its responsibility for the administration of the loan program and
- b. has assurance that the agency was adequately bonded in an amount to cover all assets of the loan fund which are under the control of the agency at any particular time.
- c. receives from the billing service the total funds collected; no fees are directly deducted from amounts received from students.

--The billing procedures required, whether performed by the institution or external organizations should include the following:

- a. transmittal of a notice and a statement of account to each borrower no later than 30 days preceding the date on which the first repayment installment is due.
- b. transmittal of a statement of account to each borrower no fewer than 10 days preceding the due date of each payment.
- c. contact with the borrower by telephone or written demand on any payments not received within 15 days of the due date.
- d. follow-up with two more demands spaced 30 days apart if no response for payment is received.
- e. maintenance of a monthly list of payments in arrears with respect to loans not paid when due.
- f. procedures for effecting prompt and regular repayment including personal or telephonic contact where possible.
- g. referral to a commercial skip tracing organization or program skip tracing activities with institutional personnel.
- h. referral to collection agency or perform collection activities with its own institutional personnel.

### 3.38 PAYMENTS FROM BORROWERS

#### Objective

To test the institution's procedures for recording and controlling loan repayments.

#### References

- 45 CFR 144.32 - Loan repayment
- 45 CFR 144.34 - Deferment of repayment

#### General Audit Procedures

- Select a representative sample of payments from borrowers and determine whether:

--the payments were properly credited to the loan ledgers,

--the payments were properly allocated to principal and interest,

(Note: Interest will be computed on the unpaid balance at the rate of 3 percent per annum to the date the payment was received. No interest will accrue during the grace period or the period of deferment for half-time study or participating up to three years in military service, Peace Corps, or full-time VISTA. However, in lieu of the interest computation method stated above, institutions have the following option: (1) interest may be calculated in advance on the basis of the total amortization period; and (2) a borrower's predetermined repayment schedule need not be subject to revision of interest when payments are received after the due date.)

--the late charges, collection costs, or minimum repayments, if applicable, were properly computed and recorded,

(Note: The provisions for these charges must be included in the note signed by the borrower. Payments on overdue amounts are credited first to interest, then to principal.)

--periodic postings were made to the accounts Loan Principal Collected, Interest Income on Loans, and Other Income, if applicable.

### 3.39 LOAN DEFERMENTS

#### General Considerations

Deferment of payments on the loans may be granted when the borrower is (1) carrying at an institution of higher education at least one-half the normal full-time academic work load as determined by the institution, or (2) a member of the Armed Forces of the United States or in service as a volunteer with Peace Corps or VISTA. The deferment status under Armed Forces, Peace Corps or VISTA cannot exceed three years. The interest shall not accrue on the loans during the deferment period. Borrowers must submit their request for deferment to the institution on a properly completed form "Request for Deferment of Repayment Because of Armed Forces, Student, Peace Corps or VISTA Status."

#### Objective

To test the institution's system for processing deferment requests from borrowers.

#### References

- 45 CFR 144.34 - Deferment of repayment

#### General Audit Procedures

- Select a representative sample of borrowers in deferment status and determine if the institution:
  - reviewed the deferment request form for accuracy, completeness, and certification by an authorized official of the respective organization,
  - made a determination that the borrowers were eligible for deferment status,
  - maintained on file a certified form covering each year that deferment is claimed,
  - made the appropriate notations or changes to its records,
  - processed the request for deferment status form in a timely manner,
  - made a determination that the deferment did not exceed three years on military, Peace Corps or VISTA Status.

### 3.40 LOAN CANCELLATIONS

#### General Considerations

The National Defense/Direct Student Loan Program provides for cancellation of loans in six categories; teaching, Head Start, military, death, disability, and bankruptcy. Eligibility for cancellation benefits will vary depending on the dates of the loans, as several legislative amendments have been made regarding cancellations. The Education Amendments of 1972 discontinued for Direct Loans certain provisions which applied to Defense Loans.

#### Objective

To test the institution's system for processing cancellation forms, and recording cancellation adjustments to the loan fund accounts.

#### References

- 45 CFR 144.52 - Teacher cancellation - Defense Loans
- 45 CFR 144.53 - Teacher cancellation - Direct Loans
- 45 CFR 144.54 - Head Start cancellation
- 45 CFR 144.55 - Military cancellation
- 45 CFR 144.56 - Cancellation for death or disability
- 45 CFR 144.41 - Bankruptcy of borrower.

#### General Audit Procedures

- Select a representative sample of payments cancelled because of teaching, Head Start, military, death, disability and bankruptcy and test the institution's system for processing the cancellations. Particular attention should be given to the following:

#### TEACHING CANCELLATIONS

--the correct rate was used,

for Defense loans made prior to July 1, 1972 - 10 or 15 percent,

for Direct loans made on or after July 1, 1972 - 15, 20 or 30 percent,

(Note: As of July 1, 1972, a new provision for up to 100 percent cancellation for full-time staff members in a pre-school Head Start program at the rate of 15 percent per year has been added. However, teaching in an elementary and secondary school not designated as having in excess of 30



percent low-income enrollment, teaching in colleges, and teaching in elementary and secondary schools overseas operated by the Department of Defense no longer apply for loans made on or after July 1, 1972.)

- the form "Request for Partial Cancellation of Loan Due to Teaching Service" was complete and signed by an authorized official in the school system certifying the teaching service,
- a determination was made as to eligibility and rate of cancellation based on whether the borrower had a Defense or Direct Loan,
- the amounts cancelled were properly credited to the borrower's loan account,
- the cancellation forms were processed in a timely manner,
- the correct amount of principal and interest was cancelled.
- ° for Defense loans made prior to July 1, 1972, (Reference Section 144.52 and the appropriate Federal Register listing of low-income schools),

(Note: The institution will be reimbursed for loss of the institution's share of principal and interest cancelled as a result of teaching service for loans made prior to July 1, 1972. However, no reimbursements will be made when the loss is from EOG funds transferred to the Defense Loan Program unless the transferred funds were matched and merged with the regular Defense Loan funds as suggested by OE.)

- ° for Direct loans made on or after July 1, 1972 (Reference Section 144.52 and the appropriate Federal Register listing of low-income schools).

(Note: The Loan Fund will be reimbursed for loss of the total amount of principal and interest cancelled as a result of teaching service for loans made on or after July 1, 1972.)

#### MILITARY SERVICE CANCELLATIONS

- the correct rate was used - 12 1/2 percent,
- the form "Request for Partial Cancellation of Loan for Military Service" was complete and signed by the Commanding Officer certifying the dates of service and, for loans after June 30, 1972, whether or not the borrower was in an area that qualifies for special pay under Section 310 of Title 37 of the U.S. Code,

- the cumulative amount for military cancellations did not exceed the maximum amounts authorized [Reference Section 144.55(a) (1), (b) (1)],
- a determination was made as to borrowers' eligibility for cancellation,
- the correct amount of principal and interest was cancelled,
- ° for Defense loans made from April 14, 1970 to July 1, 1972 [Reference Section 144.55(a) (1)],

(Note: The institution will be reimbursed for loss of the institution's share of principal and interest cancelled as a result of military service for loans made from April 14, 1970 to July 1, 1972. However, no reimbursements will be made when the loss is from EOG funds transferred to the Defense Loan Program unless the transferred funds were matched and merged with the regular Defense Loan funds as suggested by OE).

- ° for Direct loans made on or after July 1, 1972 [Reference Section 144.55(b) (1) (2)].

(Note: The Loan Fund will be reimbursed for loss of the total amount of principal and interest cancelled as a result of military service for loans made on or after July 1, 1972.)

#### OTHER CANCELLATIONS

- the cancellations because of death were supported by death certifications or other official proof,
- the cancellations because of permanent and total disability were approved by OE,
- the cancellations because of bankruptcy of the borrower were adequately documented.

#### REIMBURSEMENT BY THE COMMISSIONER OF EDUCATION OF AMOUNTS CANCELLED

##### ° Defense Loans

- With respect to loans made prior to July 1, 1972, the Commissioner will reimburse each institution each

award period for loss of principal and interest during that award period resulting from cancellations for teaching service or military service. The reimbursement shall be an amount which bears the same ratio to the interest which has been prevented from accruing and the portion of the principal which has been cancelled as the total amount of the institution's capital contributions to its Fund bears to the sum of the institution's capital contributions and the Federal capital contributions to such Fund (usually ten percent). Reimbursements to the institution for amounts cancelled on Defense Loans do not have to be deposited to the Fund and may be used at the discretion of the institution.

° Direct Loans

--On loans made after June 30, 1972, the Commissioner will pay to each institution for deposit into its Fund, for each award period, an amount equal to the amount of principal and interest thereon, which has been cancelled from its Fund for such year for teaching, military, or Head Start service. No reimbursement shall be made to the institution for cancellations due to death, disability, or bankruptcy. All such reimbursements (payments) to the institution by the Commissioner for cancellations under Direct Loans must be deposited to the institution's National Direct Student Loan Fund.

--Determine that the amount received from OE for loan cancellations on Direct Loans has been properly and timely deposited into the NDSL Fund.

3.41 ASSIGNMENT OF NOTES

Objectives

To test the institution's procedures for assigning defaulted loans to the United States for collections.

References

- ° 45 CFR 144.8(d) (e) - Institutional agreement
- ° 45 CFR 144.2(v) - Definitions - "In Default"

## General Audit Procedures

- In those situations where a note or written agreement evidencing a loan has been in default for at least two years despite due diligence on the part of the institution making collections, the institution may assign its right under such note or agreement to the United States, without recompense, and that any sums collected on such a loan shall be deposited in the General Fund of the U.S. Treasury. In order to make an assignment of a defaulted note, the institution must be able to satisfactorily demonstrate due diligence in its collection efforts such as systematic billings, use of skip trace, and use of a collection agency or other comparable institutional collection procedures. Select a representative sample of defaulted loans assigned to the United States and determine if the institution:

--performed due diligence in its collection efforts, See Section 3.37 of this guide,

--determined that the notes have been in default at least two years.

- Determine that the institution has submitted to the Commissioner at least twice during the year a report showing the total number of NDSL loans which are in default; Reference Section 144.8(e). The semi-annual report is titled "Report on Defaulted Loans", OE Form 574.

### 3.42 LOANS TO INSTITUTIONS

#### Objective

To determine that the institution is current in its payments of principal and interest on its loan from the Commissioner of Education.

#### References

- 45 CFR 144.61 - Institutional loans
- Subpart E - Loans to Institutions for Institutional Capital Contributions

#### General Audit Procedures

- The Commissioner of Education may make a loan to a participating institution for the purpose of assisting that institution in

financing its "institutional capital contributions" (one-ninth of the Federal capital contribution) to its Fund.

--At those institutions who have an institutional loan, review the document for repayment provisions and determine whether the institution is current in its payments of principal and interest.

--If payments are in arrears, determine if BSFA has been notified and the proper deferral arrangements have been made.

### 3.43 EXCESS CASH BALANCE - NDSL FUND

#### Objective

To determine that the institution has not accumulated in its Loan Fund unnecessary cash balances.

#### References

- ° 45 CFR 144.4(c) - Payment

#### General Audit Procedures

- ° Payments of the Federal capital contributions will be made in such installments as the Commissioner determines will not result in unnecessary accumulations of capital in the Fund. The auditors must exercise professional judgment in this area because guidelines do not currently exist as to what is considered excess cash. Some of the factors to take into consideration are:

--Review of institution's procedures for evaluating their estimate of capital needed to operate the NDSL Program.

--Effectiveness of the system used to identify and control the amount of cash in the NDSL Fund.

--Whether the cash drawn from DFAFS for the NDSL Fund exceeds the current funding requirements on loans made.

--Whether the collections on outstanding loans are sufficient to meet the current year funding requirements.

--Utilization of cash in the Fund; is it being invested in interest producing securities and/or does management have a definite plan for utilization of the cash funds.

--Explanation provided to the Office of Education on the annual application form as to need for the excess cash balance and its planned disposition.

- To assist the Office of Education in controlling the amount of cash on hand at the institution, prepare and submit as a supplementary schedule in the audit report a "cash flow analysis." A suggested format is provided. SEE SCHEDULE 3.

## COMPLIANCE - COLLEGE WORK-STUDY PROGRAM

### 3.44 ELIGIBILITY AND SELECTION OF STUDENTS

#### Objective

To test the institution's system for determining student eligibility and selection of students to participate in the CWS Program.

#### References

- 45 CFR 175.9 - Eligibility and selection of students

#### General Audit Procedures

- Review the institution's system for determining student eligibility for part-time employment. This system should provide for the institution's review of all CWS student applications to insure (1) conformance with applicable eligibility requirements discussed in Section 175.9; (2) that students' applications are complete to the maximum extent possible; and (3) that the information on the application was consistent with other grant or loan data on file at the institution, and the student was provided an opportunity to explain and/or rectify any apparent discrepancies when disclosed.
- Review selected students' application forms to determine whether the application form provided sufficient information on the financial need of the student in relation to his/her source of income.

From the records supporting the selected applications ascertain that the institution made a determination that:

- the student is or intends to become a U.S. citizen;
- the student is capable, in the opinion of the institution, of maintaining good standing while being employed under the program;
- the student has been accepted for enrollment at the institution on at least a half-time basis or, in the case of a student already enrolled in and attending the institution, is in good standing and is in attendance on at least a half-time basis either as an undergraduate, graduate, or professional student;

- the student is in need of employment in order to pursue a course of study at the institution;
  - the student has executed and signed an affidavit of educational purpose;
  - was admitted as a regular student with a certificate of graduation from a school providing secondary education, or the equivalent of such a certificate, Reference Section 175.9(b) - applies to Vocational Schools only;
  - was enrolled in a program of education or training which required at least 6 months to complete and which was designed to prepare the student for gainful employment in a recognized occupation, Reference Section 175. (b) (2) - applies to Vocational Schools only.
- ° Determine whether there is an effective procedure for giving preference for employment under the CWS Program to students with the greatest financial need, Reference Section 175.9(b).

### 3.45 DEVELOPMENT OF JOBS

#### Objective

To test the institution's policies and procedures for determining employment opportunities under the CWS Program.

#### References

- ° 45 CFR 175.16 - Program eligibility

#### General Audit Procedures

- ° Determine whether the institution has written agreements with any off-campus organizations to which College Work-Study students have been assigned. Determine that the off-campus agency qualifies as a participating organization in that it is a private non-profit organization or Federal, state or local public agency; and the work required is related to the public interest; References Sections 175.16(a) (1) (4) and 175.16(c) (1).
- ° On proprietary institutions of higher education, determine that CWS students are not being paid for work for the institution itself; Reference Section 175.16(a) (1). For purposes of this requirement, a proprietary institution also includes any non-profit organization owned or controlled by the proprietary institution or by the corporation, association, partnership or individual which owns or controls the proprietary institution.

- ° Determine by inquiry whether the institution has established procedures to determine that work performed by the students:
  - is responsibly supervised;
  - did not involve any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election for public or party office;
  - will not result in displacement of employed persons, the impairment of existing contracts for services, nor the filling of positions that are vacant because the employer's regular employees are on strike;
  - will not involve any lobbying at the Federal level; and
  - will not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place of religious worship.
- ° Under the terms of agreement between OE and the institution, the institution agrees to maintain any contracts for services and not have these services performed by students employed under the CWS Program. The institution also agrees not to displace regular employees with students employed under the CWS Program.

Determine whether contracts for services were in existence for the year immediately preceding the year the CWSP agreement became effective at the institution and determine whether:

- the contracts were still operative, or if not operative,
- the services were not now being performed by students employed under the College Work-Study Program.

Determine by inquiry or other appropriate means that regular employees have not been displaced by students employed under the College Work-Study Program.

- ° If an institution is engaged in profit making activities such as the operation or rental of athletic fields, auditoriums, theaters, and the performance of administrative functions in connection therewith; determine that the CWS employment is limited to that part of the operation which applies to events which are conducted as part of the educational, cultural or athletic programs of the institution itself. All other work under profit-making activities are not allowable under CWS; Reference Section 175.16(3).



### 3.46 STUDENT COMPENSATION EARNED

#### Objective

To test the institution's system for payment of salary and wages to CWS students.

#### References

- 45 CFR 175.18 - Establishment of wage rates
- 45 CFR 175.19 - Limitations on the number of hours of employment
- 45 CFR 175.20 - Earnings attributable to cost of education
- 45 CFR 175.21 - Payments to students
- 45 CFR 175.22 - Limitations on the Federal share of student compensation
- 45 CFR 175.28(b) - Records and reporting

#### General Audit Procedures

- Determine if the institution had on file a written document which is signed by the student indicating acceptance of employment and receipt of notice of authorized limit of Work-Study Award. The document should contain the following:
  - nature and source of other student financial aid,
  - condition of employment is that the student maintains good standing in the course of study he/she is pursuing and carries an academic workload sufficient to qualify him/her as at least a half time student during the academic year, Reference Section 175.21(c). This document shall be on file before any payments are made.
- Select a representative sample of payroll disbursements and perform the following audit steps:
  - Determine whether the following records are being maintained by the institution for the payroll account:
    - a. a time record form,
    - b. a payroll voucher form,
    - c. an individual earnings record or master card for each student,
    - d. a non-cash contribution record, if applicable.

- Determine whether individual earnings records agree with the amounts shown on W-2's.
- Determine that the total amount paid did not exceed the amount authorized in the student's grant award.
- Determine whether the payments were properly supported by time sheets that:
  - a. were signed by the student and certified by the responsible official,
  - b. reflect the actual hours worked by the student,  
  
(Note: The CWS student cannot be compensated for such items as paid sick leave, vacation pay, holiday pay, or travel for athletic purposes. If the time sheets consistently show the maximum hours authorized, the auditor should inquire about the institution's policy relating to the payment for sick leave, vacation pay, etc.)
- Determine the manner in which CWS checks are distributed to recipients. In any instances in which the checks are not distributed or mailed direct but are given to a department (athletic, art, etc.) for further distribution to the recipient:
  - a. determine how the department makes such distribution.
  - b. examine cancelled checks to determine whether the department (athletic, art, etc.) is shown as a second endorsement. If so, determine the reason. (Note: The auditor should be alert for any unusual second endorsements which come to his attention and satisfy himself/herself that they are not improper.)
- Determine whether the individual earnings record for each student selected reflects:
  - a. the proper hourly rate to be paid, Reference Section 175.18;
  - b. the hours worked and paid under the Work-Study program were within the limitations, i.e., no more than 40 hours per week during periods when classes are not in session, Reference Section 175.19;
  - c. the deductions were properly and correctly computed (such as withholding taxes, state and local taxes, FICA, etc.).

(Note: Neither the Federal nor the required matching funds can be used to pay the employer's contribution to retirement, workmen's compensation, social security or any welfare or insurance program, Reference Section 175.22.)

--Determine whether the checks evidencing payment of wages were:

- a. paid to students at least once a month,
- b. identified to the CWS Program (if no separate checking account is maintained),
- c. made out to the individual student employee,
- d. signed by the properly designated official of the institution,
- e. endorsed by the indicated payee,
- f. for the same amount reflected on the payroll voucher.

(Note: If cancelled checks are not available, other acceptable proof of payment should be on file, Reference Section 175.21(b).)

--When the payroll disbursements to students are made by the off-campus agency, determine that the institution receives documentation to support the payments - time reports, supervisor's certification and photographic copies of cancelled checks.

--When considered necessary attend a payroll payoff and observe the controls in payroll disbursement procedures.

--Review the time sheets showing dates and hours worked with the student's class schedule, and if an athlete, his/her practice schedule. If there is a conflict between the two time periods and the matter is significant and cannot be explained in a satisfactory manner, contact the appropriate Regional Audit Director.

o Ascertain whether the institution determined that the student met the following requirements prior to disbursing the CWS payments.

--Is maintaining satisfactory progress in the course of study he/she is pursuing, according to the standards and practices of the institution that the student is attending;

--Is not in default on any loan made from a student loan fund at the institution or on a loan made, insured, or guaranteed under the Guaranteed Student Loan Program for attendance at the institution; and

--Does not owe a refund on Basic Grants previously received for attendance at the institution, the Supplemental Educational Opportunity Grants Program, or the State Student Incentive Grant Program. (See Appendix J, Proposed Regulations)

(Note: If the institution is not in compliance with the above requirements the payment to the students must be made from institutional funds rather than CWS funds).

- ° Obtain confirmation of student participation and salary earned in the CWS Program by direct communication with the off-campus agencies and on-campus supervisors. Where this is not practicable the auditor should perform additional work to obtain adequate evidence to satisfy himself/herself as to student participation and salary earned at the off-campus agencies.
- ° Compare the payroll voucher totals with the general ledger control account. Any differences should be reconciled and explained.

#### SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

##### 3.47 ELIGIBILITY OF SEOG RECIPIENTS

###### Objective

To test the institution's system for determining student eligibility for SEOG awards.

###### References

- ° 45 CFR 176.9 - Student eligibility
- ° 45 CFR 176.10 - Duration of student eligibility
- ° 45 CFR 176.2(r) - Definitions - Proprietary institution

###### General Audit Procedures

- ° Review the institution's system for determining student eligibility for an SEOG award. This system should provide for the institution's review of all SEOG applications to insure (1) conformance with applicable eligibility requirements discussed in Section 176.9; (2) that student applications are complete to the maximum extent possible; and (3) that the information on the application was consistent with other grant or loan data on file at the institution and the student was provided an opportunity to explain or rectify any apparent discrepancies when disclosed.

- Review selected students' application forms to determine whether the application form and supporting records provided sufficient information for the institution to determine that:
  - the student is or intends to become a U.S. citizen;
  - the student shows evidence of academic or creative promise and is capable, in the opinion of the institution, of maintaining good standing in his/her course of study (demonstrated by acceptance for study at the institution);
  - the student is an undergraduate;
  - the student has been accepted for enrollment as at least a half-time undergraduate student at the institution or, in the case of an undergraduate student already attending the institution, is enrolled on at least a half-time basis;
  - the student is of exceptional financial need; Reference Section 176.9(c) (1);
  - the student has executed and signed an affidavit of educational purpose;
  - the student was admitted as a regular student with a certificate of graduation from a school providing secondary education, or the equivalent of such a certificate, Reference Section 176.2(r), applies to proprietary institutions only;
  - the student was enrolled in a program of education or training which required at least 6 months to complete and which was designed to prepare the student for gainful employment in a recognized occupation, Reference Section 176.2(r), applies to proprietary institutions only;
  - the student has not exceeded the number of years during which he/she may receive an SEOG award; normally such period may not exceed a total of four academic years. Exceptions are;
    - a. program of study is designed to extend over five academic years; and
    - b. special circumstances; handled on an individual exception basis.

### 3.48 DETERMINATION AND DOCUMENTATION OF SEOG AWARDS

#### Objective

To test the institution's system for awarding SEOG grants to students.

#### References

- 45 CFR 176.16 - Amount of grant
- 45 CFR 176.17 - Payment of grant
- 45 CFR 176.11 - Cost of education
- 45 CFR 176.12 - Expected family contribution
- 45 CFR 176.13 - Approved need analysis systems

#### General Audit Procedures

- ° Select a representative sample of SEOG awards and the records supporting the determination of the SEOG amount and ascertain that the institution did make a determination, or verified an outside service center determination e.g. American College Testing Service, in sequence, of the following:
  - Cost of attending the institution of higher education, Reference Section 176.11;
  - Total family contribution, Reference Section 176.12;
  - Total student contribution,
  - Financial need of the student,
  - The Supplemental Educational Opportunity Grant amount and matching amount of aid provided by the institution.
- ° For the sample selected for review determine if the institution's records indicate that:
  - The institution notified the student of the grants and that each source of matching funds was identified, Reference Section 176.17;
  - The student acknowledged his/her acceptance of the financial aid package, Reference Section 176.17;
  - The individual SEOG awards have been matched only with eligible funds in the proper amounts. The institution is required to make available to the student from other sources of student financial aid funds an amount equal to the SEOG award, Reference Section 176.16(a)(c);

(Note: The proper matching of SEOG awards should be made on an individual by individual basis, instead of on a collective basis for all awards under the SEOG Program.)

--The SEOG award did not exceed \$1,500 or 50% of the total amount of financial aid awarded to the student for an academic year.

--The student did not receive in the aggregate an amount in excess of the maximum limitations:

- a. \$4,000 - four year students,
- b. \$5,000 - five year students;

(Note: The duration of eligibility and the maximum aggregate award apply to all students pursuing an undergraduate course of study at one or more institutions. This necessitates maintaining cumulative records on all SEOG recipients at a given institution and obtaining a financial aid disbursement history, such as a financial aid transcript, from all institutions of prior attendance for students transferring to an institution who make applications for an SEOG.)

- ° The minimum SEOG award permitted for an academic year is \$200. Select all SEOG awards of less than \$200 and determine whether these awards were for a time period of less than an academic year. Any awards from Federal SEOG funds in an amount less than \$200 for an academic year or equivalent must be treated as an institutional award and the institution must restore to the SEOG account an amount equal to the SEOG funds improperly awarded.

### 3.49 DISBURSEMENTS TO STUDENTS

#### Objective

To test the institution's system for payments to SEOG recipients.

#### References

45 CFR 176.17 - Payment of grant

45 CFR 176.16 - Amount of grant

#### General Audit Procedures

- ° Determine if the institution had on file a written document which is signed by the student indicating acceptance of the

grant and notice of the amount of the grant, along with the fact that such amount may not exceed 50 percent of the total student financial aid made available to him/her through the institution. The document shall contain the following:

- nature and source of other student financial aid funds;
- condition of grant is that the recipient maintains satisfactory progress in the course of study he/she is pursuing and carries an academic workload sufficient to qualify him/her as at least a half-time student during the academic year.

This document shall be on file before the initial payment of an SEOG award is made; Reference Section 176.17(b).

- o Select a representative sample of disbursements to students--initial and continuing--and determine whether:

- individual student ledger cards or other records are maintained and reflect:

- a. the amount of the awards (see Section 176.16),
- b. the amount and date of disbursements to the student,  
(Note: No disbursements can be made prior to official attendance at the institution.)
- c. current enrollment status.

- disbursements were supported by checks which were:

- a. identified to the SEOG Program (if no separate checking account is maintained),
- b. made out to and endorsed by the individual student,  
(Note: The auditor should be alert for any unusual second endorsements which come to his/her attention and satisfy himself/herself that they are not improper.)
- c. for the same amounts reflected as disbursements.

(Note: Institutions can apply disbursements to student's records. If this is done, a signed acknowledgment or other evidence that the amount has been properly credited should be on file).



--on payments other than direct disbursements to students determine that an acknowledgment by the student or other evidence is on file.

° Determine that the institution made payments to the SEOG recipients in equal amounts (rounded to nearest dollar - at least once at the beginning of each semester, trimester, or quarter if such an academic unit was used. If the institution was not utilizing such academic periods, determine that payments were made in equal amounts not less than twice during the portion of the school year which falls within the academic year--one payment at the beginning and the other at the midpoint.

° Determine whether the institution is in compliance with the provisions of 45 CFR 176.17(c) wherein the institution does not make payment of SEOG funds unless the institution determines that the SEOG recipient:

--Is maintaining satisfactory progress in the course of study he/she is pursuing, according to the standards and practices of the institution at which the student is in attendance;

--Is not in default on any loan made from a student loan fund at the institution or on a loan made, insured, or guaranteed under the Guaranteed Student Loan Program for attendance at the institution; and

--Does not owe a refund on Basic Grants previously received for attendance at the institution, the Supplemental Educational Opportunity Grants Program, or the State Student Incentive Grant Program. (See Appendix J, Proposed Regulations--May 15, 1978).

--Continues to be of exceptional financial need; and

--Is carrying an academic workload sufficient to qualify him/her as at least a half-time student during the academic year.

° Compare the totals of disbursements with the general ledger control accounts. Any differences should be reconciled and explained.

### 3.5 EXIT CONFERENCE

Upon completion of the field work, the auditor must hold a closing or exit conference with senior officials of the institution. Any audit findings and recommendations, in either the financial or compliance areas, must be fully discussed.

The exit conference gives the auditor an opportunity to obtain comments on the accuracy and completeness of the facts presented and the conclusions reached. This conference also serves to provide institutional officials with advance information as a basis for initiating corrective action without waiting for the final audit report. Whenever possible, the concurrence or the reasons for nonconcurrence by the institution should be obtained and incorporated in the report. Information on any corrective measures taken or promised to be taken by the institution should also be included in the appropriate sections of the report under a caption "Institution's Comments."

The audit working papers should contain the name of the auditor(s) who conducted the exit conference; the names and positions of institutional officials with whom the exit conference was held; details of the discussions, and recommendations of the institutional officials.

### 3.6 REPORTING REQUIREMENTS

The final audit report will be issued to the institution's Board of Directors and/or President, as appropriate. The required format for this report is shown in Section 3.8 of this guide. Although not indicated in the report format, please include the following in the report:

1. The complete name and address, including the zip code, of the party to whom the report is directed and an appropriate salutation.
2. Your own complete address, including the zip code, and your area code and telephone number.
3. If the addressee is not the institution identified in the latest HEW award document for the period audited as the grantee which happens in a change of ownership or other type of reorganizations, the "background" section of the report should include the name and address of the grantee as shown in the award document.

If they are the same but there has been a change in the current name and/or address, the background data should include a reference disclosing the original name and/or address.

4. Signatures covering the report on the financial statements and supplemental schedules and on the report on the internal accounting and administrative control and compliance information.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), HEW Audit Agency reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public, to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise--(Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised). Accordingly, names, Social Security Numbers and other personal identifiers should not be included in either the body of the audit report or attached schedules. Non-Federal audit reports processed through the Agency's audit control system are subject to these same principles.

### 3.7 REPORT DISTRIBUTION

The audit report on the student aid programs should be issued not later than 180 days after the end of the program year (which normally ends June 30) unless special circumstances warrant an extension of the issuance date. If an extension of time is needed, the Division of Certification and Program Review, OE Headquarters, should be advised and provided with a revised target date for submission of the final audit report.

If the audit of the institution's BEOG Program was conducted along with the review of the campus base programs, the results of the BEOG audit may be incorporated in this report. The audit guide for the BEOG Program is dated June 1978.

The auditor shall transmit thirteen (13) copies of the final audit report directly to the appropriate HEW Regional Audit Director. (See Appendix A.) The independent audit firm also will provide the institution with a minimum of two (2) copies of the final audit report.

### 3.8 REPORT FORMAT

All audit reports should include a cover page, table of contents, exhibits and schedules, and narrative sections as necessary. The cover page should show:

Name of Institution  
City and State  
Title of Report  
Entity Identification Number  
Period Covered by Audit  
Date of Report

## CONTENTS

The table of contents should set forth the major sections of the report with their respective page numbers. The table of contents will be arranged into five parts as follows:

### Introduction

Background  
Scope of Audit

### Highlights of Audit Results

#### Financial

Auditor's Report on Financial Statements and Schedules  
Exhibits and Schedules  
Findings and Recommendations - Financial

#### Internal Accounting and Administrative Controls and Compliance

Auditor's Conclusions on Internal Accounting and Administrative  
Controls and Compliance  
Findings and Recommendations - Internal Accounting and  
Administrative Controls and Compliance

#### Prior Audit Reports

## PART I - INTRODUCTION

### Background

The introductory section of the report is designed to provide a general description of the institution and the programs. The background section enables the reader to put into perspective the scope of audit and highlights of audit results sections.

Background information generally includes statements on the nature, authority, purpose, size, and organization of the institution and the program(s). In addition, this section should include very brief information as to the other Federal and non-Federal student financial aid programs administered by the institution. Information relating to each program should include the following:

NDSL - the date the NDSL Fund was established;  
the cumulative amount loaned and the number of students  
extended loans; percentage of total loans in Default, and  
the period covered by the audit.

CWSP - the date the CWSP was established;  
the Federal and institutional share of compensation  
to students under the program during the fiscal year;  
the total number of students participating in the  
program during the fiscal year; and the period covered by  
the audit.

SEOGP - the date the SEOG Program was established;  
the total amount of grants awarded to students under the  
program during the fiscal year;  
the total number of students participating in the program;  
the period covered by the audit.

BEOGP - the date the BEOG Program was established at the institution;  
total amount of program funds authorized and expended for  
the period under audit; and  
total number of BEOG recipients during this period.

An illustrative background section follows:

#### INTRODUCTION

##### Background

The (Institution's name) is an institution of higher education and was approved on November 1965, by the Office of Education for participation in the Student Financial Aid Programs. Our examination of the National Direct Student Loan Program, College Work-Study Program and Supplemental Educational Opportunity Grants Program of the The XYZ University, for the year ended June 30, 1978, was directed toward the objectives set forth in the audit guide dated July 1978, prepared by the Department of Health, Education, and Welfare.

##### National Direct Student Loan (NDSL) Program:

On February 4, 1967, the University entered into an agreement to establish a NDSL Program under the National Defense Education Act of 1958 which was transferred in 1972 to Part E of Title IV of the Higher Education Act of 1965. The records of the institution indicate that loans aggregating \$1,788,273 have been made to 909 students since the establishment of the program at the University. At June 30, 1978, approximately 24.3% of student loans receivable in repayment status were in default, ranging from 121 days to over 7 years past due.

### College Work-Study (CWS) Program:

On January 14, 1966, the University established the CWS Program pursuant to Title IV, Part C, of the Higher Education Act of 1965, as amended. During the year ended June 30, 1978, 126 students participated in the program and expenditures for wages aggregated \$48,800 from Federal Funds, \$10,200 from University Funds, and \$2,000 from off campus agencies. The authorization award letter to the University for the academic year 1977-78 was in the amount of \$60,000.

### Supplemental Educational Opportunity Grants (SEOG) Program:

The SEOG Program was established at the University on January 14, 1966, under Title IV, Part A, of the Higher Education Act of 1965, as amended. During the year ended June 30, 1977, 20 students participated in the program and awards made from Federal Funds aggregated \$17,000. The authorization award letter to the University for the academic year 1977-78 was in the amount of \$18,420.

### Basic Educational Opportunity Grant (BEOG) Program:

The University entered into an agreement with the Office of Education in July 1975 to participate in the Basic Educational Opportunity Grant (BEOG) Program. This program provides eligible students with a foundation of financial aid to help defray the costs of postsecondary education. Program funds in the amount of \$26,500 were authorized for the academic year 1977-78. During this period \$24,000 was expended for Basic Grant awards to forty full-time and five part-time students.

The university officials responsible for overall administration of the programs are the Treasurer and the Director of Student Financial Aid.

The Financial Aid Office is responsible for application processing and loan approvals, as well as the school's compliance with the various U.S. Office of Education regulations governing the school's participation in Federal and state student financial aid programs.

The Treasurer's Office is responsible for the program's financial management, general ledger accounting, payments, collections, and quarterly financial reports of the Loan Fund.

During the audit period the institution received other student financial aid funds including \$32,000 from the state for the State Student Incentive Grant Program and \$150,000 from private scholarship programs.

### Scope of Audit

This section should explain clearly the scope and objectives of the audit. While the scope section must be tailored for each report the following characteristics are generally present:

1. A specific statement concerning the conduct of the audit in accordance with the financial and compliance elements of the Standards for Audits of Governmental Organizations, Programs, Activities & Functions issued by the U.S. Comptroller General in June 1972 (1974 reprint) and with this audit guide.
2. Clear and precise statements of the specific audit objectives, with sufficient information to enable the reader to ascertain the nature of the audit work completed.
3. Statements concerning the places at which the audit was conducted.
4. Qualifying or limiting remarks, if needed, to avoid unwarranted inferences concerning the scope and purpose of the audit and to call attention to deviations from the areas of audit coverage specified in Chapter 3 of this guide.

The HEW Audit Agency recognizes that some of the information included in the scope section will also be in the "Auditor's Report on Financial Statements." However, we have concluded that it is necessary to include the information in both places in order to clearly present the scope and purpose of the audit and to avoid unwarranted inferences.

An illustrative example of a scope section follows:

Our audit of the National Direct Student Loan Program, College Work-Study Program and Supplemental Educational Opportunity Grants Program was performed in accordance with the financial and compliance elements of the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" issued by the Comptroller General in June 1972 (1974 reprint) and the audit guide prescribed by the Department of Health, Education and Welfare dated July 1978. The purpose of the audit was to formulate an opinion on the basic financial statements taken as a whole and to determine if these programs were administered in accordance with applicable laws, regulations, terms of agreements, and OE directives which are set forth in the audit guide.

The audit included:

1. Expressing an opinion on the Balance Sheets, related Statement of Changes of Fund Balances, and supplementary schedules.
2. Evaluation of the institution's policies, procedures, and practices used to administer the program.
3. Determination of compliance with applicable sections of the acts, related Federal regulations, and Office of Education policies and procedures.

4. Evaluation of the institution's systems of internal control, accounting, and reporting, and the controls maintained in the operation of and accounting for the funds provided for the programs.
5. Reconciliation of the information reported on the appropriate financial statements, with OE Forms 1152-2, 1152-3, and 1152-4 for the year (or years) audited.

As part of our audit we obtained confirmation from selected students on SEOG awards, students participating in the CWS Program and student NDSL loan balances. We mailed out 211 requests for confirmations to students participating in the campus base programs. This is about 20% of the total number of students receiving student aid funds. We received 150 confirmations back from the students of which 125 were correct and 25 responses indicated they were not in agreement. The majority of the 25 noted differences were due to time lapses between payments and posting of payments. Fifty of the confirmations were not returned by the students and the balance of 11 were returned by the Post Office with the notation "moved, left no forwarding address".

The audit covered the period \_\_\_\_\_ through \_\_\_\_\_ and field work was performed during the period \_\_\_\_\_ through \_\_\_\_\_ at the institution's business and student financial aid offices.

## PART II - HIGHLIGHTS OF AUDIT RESULTS

This section contains a concise summary of (i) significant audit findings; (ii) the auditor's recommendations for improvement; and (iii) the institution's response to the findings. The highlights section is particularly useful to those readers who desire a quick, clear synopsis of the audit results.

An illustrative highlights section follows:

Our unqualified opinion on the basic financial statements appears elsewhere in this report. (Note: Wording should be amended if a qualified opinion has been rendered.) During our audit nothing came to our attention which caused us to believe that the (Institution's name) had not generally administered its student aid programs (CWS, SEOG and NDSL) in accordance with the DHEW Federal regulations and directives cited in the HEW Audit Guide for the NDSL, CWS and SEOG programs. However, certain areas of the institution's management of student aid programs were in need of improvement, specifically, (1) the accounting system did not provide adequate financial data to ensure that institutional contributions for the CWS Program were made properly on a timely basis, and (2) improvement is needed in the process concerned with collection of amounts on loans made under the NDSL Program. These matters are discussed more fully under the "Findings and Recommendations"



section of this report, see pages \_\_\_ through \_\_\_. Our opinion on the financial statements and schedules, is on page \_\_\_. The institution agreed to improve its accounting procedures on institutional matching and collection procedures on NDSL loans.

### PART III - FINANCIAL

#### Auditor's Report on Financial Statements

##### Single Grant Period

An illustrative example of an unqualified auditor's report on a single grant period follows:

We have examined the balance sheets of the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grants (SEOG) Programs of XYZ University as of June 30, 19\_\_\_, and the related statements of changes in fund balances for the year then ended. Our examination was made in accordance with the financial and compliance elements of the Standards for Audits of Governmental Organizations, Programs, Activities & Functions, issued by the U.S. Comptroller General in 1972 (1974 reprint). Accordingly, we conducted such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The Guide for Audits of NDSL, CWS and SEOG Programs, Department of Health, Education, and Welfare, dated July 1978 was used as a guide in the examination.

In our opinion, the aforementioned financial statements present fairly the financial position of the NDSL, CWS, and SEOG Programs at XYZ University at June 30, 19\_\_\_, and the changes in their fund balances for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

The examination referred to above was directed primarily toward formulating an opinion on the aforementioned financial statements as of and for the year ended June 30, 19\_\_\_ taken as a whole. The supplementary data included in Schedules I through 4 are presented for supplementary analysis purposes and are not necessary for a fair presentation of the financial position as of June 30, 19\_\_\_ and the changes in fund balances for the year then ended. The supplementary data included in Schedules 1 through 4, [except where otherwise indicated], have been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, are stated fairly in all material respects only when considered in conjunction with the financial statements of the NDSL, CWS and SEOG programs taken as a whole.

Notes to Financial Statements  
for the Year Ended June 30, 19--

1. Summary of Significant Accounting Policies:

The financial statements of the NDSL, CWS, and SEOG Programs at the University have been prepared in accordance with generally accepted accounting Principles and provide for use of the accrual basis of accounting. Except as described in the following paragraph, generally accepted accounting principles are in agreement with the accounting practices prescribed for such programs by the Department of Health, Education and Welfare in the Terms of Agreement and Office of Education fiscal control and fund accounting procedures.

The prescribed practices for the NDSL Program do not provide for accrual of interest on student loans receivable or for a provision of allowance for doubtful loans. Accordingly, interest on loans is recorded as received; uncollectible loans are not recognized until the loans are cancelled or written-off in conformity with NDSL Program requirements. These practices do not conform with generally accepted accounting principles.

In order to fully disclose the financial position of the NDSL loan fund, an allowance for doubtful loans and an amount for accrued interest receivable was reported in the financial statements; however, the amounts are not included in the data submitted to OE on the Fiscal-Operation Report for the NDSL Program.

GENERAL NOTES

Notes: (1) If the auditor has not conducted an examination of prior year financial information on the NDSL Program he/she should consider the necessity of disclaiming an opinion or qualifying his/her opinion. When conditions are such that a qualified, adverse or disclaimer of opinion is warranted, the auditor's report should include a statement of all reasons which necessitated the qualified, adverse or disclaimer of an opinion (See "Statement of Auditing Standards No. 2 - Reports on Audited Financial Statements" issued by the AICPA in October 1974.

Sample language for qualifying an opinion because prior years financial information has never been audited follows:

Cumulative information for the period from July 1, 19\_\_ through June 30, 19\_\_ presented in the statement of changes in fund balances and in the supplemental analysis of student loans receivable

of the NDSL Program is based, in part, on prior years' financial statements that were not examined by us. Accordingly, we do not express any opinion on such cumulative information.

Except for the cumulative information for the period from July 1, 19\_\_ through June 30, 19\_\_ in our opinion . . . .

Sample language for qualifying an opinion because of cost adjustments follows:

We identified SEOG awards in the amount of \$3,253 to ineligible students. An explanation of these costs is presented on page \_\_\_ of our report. We recommend that the \$3,253 be restored to the SEOG program account. The final determination as to whether these costs are allowable or unallowable will be made by the Office of Education.

In our opinion, subject to any effects of the ultimate resolution of recommended adjustments, the financial statements referred to above present fairly . . . .

- (2) Where prior year audits were conducted by another CPA firm and the current auditor elects to make reference to the audits performed by the predecessor CPA firm, the auditor would disclose this fact by an addition to the standard scope paragraph stating he/she has previously examined and reported on the prior year statements. (See SAS Number 1, Paragraph 535 and Paragraph 543).

## Auditor's Report on Financial Statements

### Multiple Grant Periods

An illustrative example of an unqualified auditor's report on two or more grant periods follows:

We have examined the balance sheets of the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grants (SEOG) Programs of the XYZ University as of June 30, 1978, and the related statements of changes in fund balances for the two year period then ended. Our examination was made in accordance with the financial and compliance elements of the "Standards for Audits of Governmental Organizations, Programs, Activities and Functions" issued by the Comptroller General (GAO), in June 1972 (1974 reprint). Accordingly, we conducted such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The Guide for Audits of NDSL, CWS and SEOG Programs, Department of Health, Education and Welfare, dated July 1978, was used as a guide in the examination.

In our opinion, the aforementioned financial statements present fairly the financial position of the NDSL, CWS, and SEOG Programs of the XYZ University at June 30, 1978, and the changes in fund balances for the two year period then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

The examination referred to above was directed primarily toward formulating an opinion on the aforementioned financial statements as of and for the two year period ended June 30, 1978, taken as a whole, and was not directed toward formulating an opinion on the balance sheets at June 30, 1977, or the statements of changes in fund balances for the individual years ended June 30, 1977 and 1978. The supplementary data included in Schedules 1 through 4, are presented for supplementary analysis purposes and are not necessary for a fair presentation of the financial position as of June 30, 1978 and the changes in fund balances for the two year period then ended. The supplementary data included in Schedules 1 through 4, [except where otherwise indicated], have been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, are stated fairly in all material respects only when considered in conjunction with the financial statements of the NDSL, CWS and SEOG Programs taken as a whole. The supplementary data included in Schedules 5 through 7 were not audited by us, and accordingly we do not express an opinion on them.

(Note: See "Notes to Financial Statements", page 72 of this audit guide).

#### EXHIBITS AND SCHEDULES

The audit report covering one grant period should include as exhibits a balance sheet and a statement of changes in fund balances for the NDSL, CWS and SEOG Programs, supplemental schedules and appropriate notes to the financial statements. Suggested formats for these exhibits are attached.

The information reported on Exhibit A-1, Statement of Changes in Fund Balance; and Schedule 1, Analysis of Student Loan Receivables, reflects financial information on a cumulative basis. Therefore, if the program has not been audited from the inception of the program up through the most current date, by the same CPA firm or another CPA firm, the heading of the report dealing with the cumulative basis should be marked UNAUDITED and a disclaimer of opinion rendered.

Except for the amounts reported for the allowance for doubtful loans and accrued interest receivables on the NDSL Program, the amounts reported on the "Statement of Changes in Fund Balance" for the NDSL, CWS and SEOG Programs should agree with the amounts reported on the Office of Education Fiscal Operations Reports, OE form 1152-2, OE form 1152-3, and OE Form 1152-4. The following comment should be added as a note on each of the required "Statement of Changes in Fund Balance".

Except for the amounts reported for the allowance for doubtful loans and accrued interest receivable (applicable to NDSL Program only), the amounts reported on the Statement of Changes in Fund Balance for the NDSL, CWS and SEOG Programs agree with the amounts reported on the Office of Education Fiscal Operations Reports OE form 1152-2, OE form 1152-3, and, OE form 1152-4. If the amounts on the statements do not agree, add the following sentence at the beginning of the paragraph.

Except for the amounts reported for the allowance for doubtful loans, accrued interest receivable (applicable to the NDSL Program only), and the adjustments discussed in the schedule "Reconciliation of the Statement of Changes in Fund Balance with OE Fiscal Operations Reports," the amounts reported . . . . .

Any adjustments (material or immaterial) to the grantee's reports should be explained by either a footnote or a separate schedule, and if applicable cross-referenced to the finding and recommendation section of the report. The notes to the financial statements should include a summary of significant accounting policies and procedures and any other information necessary for an understanding of the basic financial statements.

On audit reports covering more than one year, the Accountants' Report relates to a Balance Sheet and a Statement of Changes in Fund Balances for the NDSL, CWS and SEOG Programs, and supplemental schedules covering the multiple years audited. However, because the Office of Education needs separate financial statements and exhibits for each award period in order to reconcile annual program fiscal reports with audited financial statements, separate financial statements and schedules for each of the programs and for each year must be included as schedules. The information on the separate schedules would be considered unaudited insofar as the Accountants' Report is concerned. The separate statements should be prepared in the same format as the consolidated statements to facilitate cross-referencing by OE when deemed necessary.

#### MULTIPLE YEAR AUDIT APPROACH

A suggested approach that a firm may take to perform a two year audit of the NDSL, CWS and SEOG Programs for a two year period follows:

The regulations concerning the three programs require that the institutions arrange for financial and compliance audits of these

programs, preferably on an annual basis, but no less frequently than once every two years. In the case of an audit covering two years, both years must be audited, but the audit may be considered as an examination of a single period of two years with the rendering of the financial opinion covering the two year period collectively, as well as a compliance opinion covering the two year period collectively. It is not necessary to render separate financial and compliance opinions on each of the two years separately; however, separate statements of changes in Fund Balances should be included as unaudited schedules.

Based on the above concepts, the accounting firm on both the financial and compliance reviews may treat the activity of the entire two year period as one universe for statistical sampling purposes. In other words, when drawing samples on a statistical sampling basis for both variables and compliance tests, the total population for sampling purposes would be the total activity for the two year period. No attempt would be made to treat each year's activity as separate populations nor would the samples be statistically valid for each year standing alone. The samples, however, would be valid for the two year period as a whole.

We believe the sampling approach on a two year audit is advantageous in that it should reduce audit fees and audit effort required to do a two year audit. However, the suggested approach is not required to be followed if in the professional judgment of the accounting firm it is more feasible to perform audits on each year separately and issue separate opinions.

#### Findings and Recommendations - Financial

Any findings and recommendations in the financial area should be grouped by category and included in this section. Each finding should be explained in sufficient detail to enable the reader to understand both the cause and the effect of the deficiency. The explanation of each finding should:

1. Describe the deficiency noted;
2. State the cause of the deficiency (for example, lack of established controls or improper implementation of controls);
3. Describe the extent of the deficiency, including the size of the universe, sample size, error rate, and dollar amount of error, if any;
4. Describe, if possible, the effect of the deficiency on the operation and the financial statements;

5. Include a recommendation that should correct the cause of the deficiency noted and when appropriate a recommendation for recovery of Federal funds. Any amounts recommended for recovery should be shown in the computation of recommended disallowances and be cross-referenced by caption to the appropriate finding and recommendation in this section. Note that recommendations by the auditor for recovery of Federal funds do not necessarily mean that the costs questioned will be disallowed. The final determination as to allowability of costs will be made by the Office of Education.
6. Include a statement of the institution's comments on the findings and recommendations. Comments might include a statement on the agreement or disagreement with the findings, a description of planned corrective actions, and/or statement of reasons for disagreement. (See Section 3.4 concerning the institution's comments.)

#### PART IV - INTERNAL ACCOUNTING AND ADMINISTRATIVE CONTROLS AND COMPLIANCE

The following is to be included as the auditor's conclusions on Internal Accounting and Administrative Controls and Compliance Information:

We have examined the financial statements on the NDSL, CWS and SEOG Programs, XYZ University for the year ended \_\_\_\_\_. Our opinion on the above statements is contained on page \_\_\_ of this report. As a part of our examination, we have made a study of the Institution's system of internal accounting control to the extent we considered necessary to evaluate the system as required by "Standards for Audits of Governmental organizations, Programs, Activities and Functions" issued by the Comptroller General (GAO) in June 1972 (1974 reprint). Under these standards the purpose of such evaluation is to establish a basis for reliance thereon in determining the nature, timing, and extent of other auditing procedures that are necessary for expressing an opinion on the financial statements.

We have also made a study of those internal accounting control and administrative control procedures of XYZ University that we considered relevant to the criteria established by the Department of Health, Education, and Welfare as set forth in Sections 3.2, 3.3 and 3.4 of its Audit Guide issued July 1978. Our study included tests of compliance with such procedures during the period from \_\_\_\_\_ through \_\_\_\_\_.

The objective of internal accounting control is to provide reasonable, but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for preparing financial statements and maintaining accountability for assets. We understand that the objective of those administrative control procedures comprehended

in the Department of Health, Education and Welfare criteria is to provide similar assurance as to compliance with its related requirements. The concept of reasonable assurance recognizes that the cost of a system of internal control should not exceed the benefits derived and also recognizes that the evaluation of these factors necessarily require estimates and judgments by management.

There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal control. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes of judgment, carelessness, or other personal factors. Control procedures whose effectiveness depend upon segregation of duties can be circumvented by collusion. Similarly, control procedures can be circumvented intentionally by management with respect either to the execution and recording of transactions or with respect to the estimates and judgments required in the preparation of financial statements. Further, projection of any evaluation of internal control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions and that the degree of compliance with the procedures may deteriorate.

We understand that procedures in conformity with the criteria referred to in the second paragraph of this report are considered by the Department of Health, Education and Welfare to be adequate for its purpose in accordance with the provisions of the Higher Education Act of 1965 and related regulations, and that procedures not in conformity therewith indicate some inadequacy for such purposes. Based on this understanding and on our study, we believe the XYZ University procedures were adequate for the Department's purposes. (Note: The sentence should be continued as follows, if appropriate--except for the conditions described on pages \_\_\_ through \_\_\_ of this report which we believe are not in conformity with the criteria referred to above.

This report is intended for use in connection with the grant to which it refers and should not be used for any other purposes.

Note: If the accountant's report on the audit of the financial statements is qualified, he must consider whether or not the nature of the qualifications is such as to affect his conclusions on the Internal Accounting and Administrative Controls or any compliance information.



## Findings and Recommendations - Internal Accounting and Administrative Controls and Compliance

This section will contain compliance and internal control findings and recommended corrective action to be taken. Each finding should be explained in sufficient detail to enable the reader to understand both the cause and effect of the discrepancy. The recommendation should be presented in a manner that will illustrate how this corrective action will improve program operations and when appropriate include a recommendation for recovery of Federal funds. Any amounts questioned shown in the computation of recommended disallowances and be cross-referenced by caption to the appropriate finding and recommendation in this section. The institution's comments should be included also. (See Section 3.4 concerning the institution's comments.) Note that Amounts questioned by the auditor do not necessarily mean that the costs questioned will be disallowed. The final determination as to the allowability of costs will be made by the Office of Education.

### PART V - PRIOR AUDIT REPORTS

This part will include the status of actions on findings reported in prior year audits including any presented by the HEW Audit Agency in its report transmittal letters. Where adequate corrective action has not been taken and the finding is reported again in either of the findings and recommendations sections of the current report, the auditor need only briefly describe the prior finding and show the page reference where it is included in this current report. Prior audits which have been closed during the audit period are based on determinations made through correspondence or other contacts between institutional and BSFA/OE representatives. The auditor should disclose such actions and specifically list any refunds or questioned expenditures recommended in the prior audit reports which were upheld by OE/BSFA. However, the conclusions on the adequacy of corrective actions by the institution presented in the section should reflect the auditor's own determinations. The auditor should also report in the section whether refunds OE questioned expenditures upheld by OE were actually made by the institution. If not made, the auditor should report this matter in the findings and recommendations section of the report. If there were no prior findings and recommendations, include a note to that effect in this section.

SINGLE GRANT PERIOD

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
BALANCE SHEET, JUNE 30, 19

ASSETS

CASH ON HAND AND IN DEPOSITORY . . . . .		\$	51,480
STUDENT LOANS RECEIVABLE (see Schedule 1)	\$1,180,866		
Less allowance for doubtful loans	<u>(35,426)</u>	\$	<u>1,145,440</u>
INTEREST RECEIVABLE . . . . .			<u>2,296</u>
TOTAL ASSETS . . . . .		\$	<u><u>1,199,216</u></u>

LIABILITIES AND FUND BALANCES

LIABILITIES . . . . .		\$	-0-
FUND BALANCES (DEFICIT):			
Capital:			
Federal contributions:			
Authorized . . . . .			1,295,962
Repaid . . . . .			<u>-0-</u>
Balance . . . . .			<u>1,295,962</u>
Institutional contributions:			
Authorized . . . . .			144,008
Repaid . . . . .			<u>-0-</u>
Balance . . . . .			<u>144,008</u>
Noncapital deficit (Exhibit A-1)			<u>(240,754)</u>
Total fund balances . . . . .			<u><u>1,199,216</u></u>
TOTAL LIABILITIES AND FUND BALANCES . . . . .		\$	<u><u>1,199,216</u></u>

See Notes to Financial Statements

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
STATEMENT OF CHANGES IN FUND BALANCES  
FOR THE YEAR ENDED JUNE 30, 19\_\_  
AND THE PERIOD JANUARY 1959  
THROUGH JUNE 30, 19\_\_

	FOR THE PERIOD JANUARY 1959 THROUGH JUNE 30, 19__ (UNAUDITED)*	YEAR ENDED JUNE 30, 19__
NON CAPITAL FUND BALANCE		
Additions:		
Interest on loans collected	\$ 58,532	\$ 13,914
Reimbursement on loans - canceled	-0-	-0-
Interest on loans - canceled	29,227	2,884
Accrued Interest on loans	2,296	2,296
Other	157	157
Total additions	\$ 90,212	\$ 19,251
Deductions:		
Loan principal and interest canceled		
Teaching service	\$ 227,952	\$ 20,498
Military service	2,538	363
Death	2,480	800
Bankruptcy	5,758	5,758
Total	238,728	27,419
Administrative expense	51,248	9,183
Cost of litigation	5,564	2,775
Provision for doubtful loans	35,426	35,426
Total deductions	330,966	74,803
Net decrease for the period	(240,754)	(55,552)
Fund deficit, beginning of period	-0-	(185,202)
NONCAPITAL FUND DEFICIT, JUNE 30, 19__	(\$240,754)	(\$240,754)

..... CONTRIBUTIONS .....

FOR THE PERIOD  
JANUARY 1959  
THROUGH  
JUNE 30, 19\_\_  
(UNAUDITED)\*

YEAR ENDED  
JUNE 30, 19\_\_

	FEDERAL	INSTITU- TIONS	FEDERAL	INSTITU- TIONS
CAPITAL FUND BALANCES:				
Fund balance, beginning of period . . . . .	\$ -0-	\$ -0-	\$1,170,792	\$130,100
Add authorized contributions . . . . .	1,295,962	144,008	125,170	13,908
Fund balance, June 30, 19__ (end of period)	\$1,295,962	\$144,008	\$1,295,962	\$144,008

\*If applicable

Note: Exhibit A-1 must include the comment required on page 75  
of the guide regarding the OE 1152-2 fiscal-operations report.

XYZ UNIVERSITY  
 COLLEGE WORK-STUDY PROGRAM  
 BALANCE SHEET  
 JUNE 30, 19

Assets

Cash . . . . .	\$ -0-
Federal funds receivable . . . . .	<u>500.00</u>
Total assets . . . . .	<u><u>\$500.00</u></u>

Liabilities and Fund Balances

Accrued wages Payables . . . . .	\$500.00
Other Expenses Payable (Attach Schedule) . . . . .	-0-
Fund balances . . . . .	<u>-0-</u>
Total liabilities and fund balances . . . . .	<u><u>\$500.00</u></u>

See notes to financial statements.

XYZ UNIVERSITY  
COLLEGE WORK-STUDY PROGRAM  
STATEMENT OF CHANGES IN FUND BALANCE  
FOR THE YEAR ENDED JUNE 30, 19\_\_

Additions:	
Total grant award authorization (1)	\$60,000
Deduct:	
Amount of grant award not requested or deposited (unexpended CWS grant award authorization) (2)	<u>8,760</u>
Balance - Funds provided by Federal Government (3)	51,240
Add - Funds Transferred From SEOG Program	-0-
Add - Funds provided by instituton	<u>12,200</u>
Total Funds Provided	<u>\$63,440</u>
Deductions:	
Wages:	
On Campus:	
Federal share	\$40,800
Institution share	10,200
Off Campus:	
Federal share	8,000
Institution share	<u>2,000</u>
Administrative expenses	<u>2,440</u>
Total	<u>\$63,400</u>
Net Increase (decrease) for the year (4)	-0-
Fund Balance, beginning of year	-0-
Fund Balance, end of year:	<u>\$ -0-</u>

## Notes:

- (1) Total grant award authorization is the approved level of Federal expenditures shown on the allocation letter for the grant award period. The amount of the grant available for expenditures.
- (2) Amount of grant award not requested or deposited. This is the difference between total grant award authorization and total Federal funds provided. In situations where the institution expended all funds received from the Federal Government, this line is also the Unexpended CWS grant award authorization (line 11, OE 1152-4).
- (3) Funds provided by Federal Government is the total amount of cash received or requested from HEW on the grant award documents.
- (4) In situations where the institution does not spend all of the Federal funds requested or deposited; the difference between total funds provided and total expenditures (deductions) is the fund balance for the period.

See Notes to Financial Statements

Note: Items (1) through (4) are for the information of the auditors and should not be included on exhibit B-1 in the audit report. However, Exhibit B-1 must include the comment required on page 75 of the guide regarding the OE 1152-4 fiscal-operations report.

XYZ UNIVERSITY  
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM  
BALANCE SHEET  
JUNE 30, 19\_\_

ASSETS

Cash	\$740.00
Refund due from institution	<u>-0-</u>
Total assets	<u>\$740.00</u>

Liabilities and Fund Balance

Liabilities	\$ -0-
Fund balance	<u>740.00</u>
Total liabilities and fund balance	<u>\$740.00</u>

See notes to financial statements.

XYZ UNIVERSITY  
 SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM  
 STATEMENT OF CHANGES IN FUND BALANCE  
 FOR THE YEAR ENDED JUNE 30, 19\_\_

Additions:		
Total grant award authorization		\$18,420
Deduct:		
Amount of grant award not requested or deposited (unexpended SEOG grant award authorization)		<u>-0-</u>
Balance - Funds provided by Federal Government		\$18,420
Add - Funds transferred from CWS program		<u>-0-</u>
Deductions:		
Initial awards	\$10,000	
Continuing awards	7,000	
Administrative expense	<u>680</u>	
Total DEDUCTIONS		<u>17,680</u>
Increase (decrease) during the year (unexpended SEOG authorization)		<u>740</u>
Fund balance, beginning of year		<u>-0-</u>
Fund balance, end of year		<u>\$ 740</u>

Note: Exhibit C-1 must include the comment required on page 75 of the guide regarding the OE 115-3 fiscal-operations report.

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
 ANALYSIS OF STUDENT LOANS RECEIVABLE  
 FOR THE YEAR ENDED JUNE 30, 19  
 AND THE PERIOD JANUARY 1959  
 THROUGH JUNE 30, 19

	FOR THE PERIOD JANUARY 1959 THROUGH June 30, 19 (UNAUDITED)*	YEAR ENDED JUNE 30, 19
BALANCE, BEGINNING OF PERIOD	\$ -0-	\$1,074,073
FUNDS ADVANCED TO STUDENTS	1,788,273	229,575
TOTAL	<u>\$1,788,273</u>	<u>\$1,303,648</u>
LESS CREDITS:		
Collections	393,611	95,951
Cancellations:		
Teaching service	201,441	19,960
Military service	4,137	313
Death	2,460	800
Bankruptcy	5,758	5,758
Principal amount on loans assigned to OE (2)	<u>-0-</u>	<u>-0-</u>
Total credits	<u>607,407</u>	<u>122,782</u>
BALANCE, at JUNE 30, 19	<u>\$1,180,866</u>	<u>\$1,180,866</u>

\*If applicable.

- Notes: 1. Schedule 1 must include the comment required on page 75 of the guide regarding the OE 1152-2 fiscal-operations report.
2. If loans have been assigned to OE the corresponding charge should be accounted for in the non-capital fund balance.



XYZ UNIVERSITY  
 NATIONAL DIRECT STUDENT LOAN PROGRAM  
 COMPUTATION OF DEFAULT RATE  
 AS OF JUNE 30, 197  
 (CUMULATIVE INFORMATION)

PRINCIPAL OUTSTANDING ON LOANS IN DEFAULT

Total amount advanced on loans in default	\$446,068	(1)
Deduct:		
Principal amount repaid	\$ 98,903	
Principal amount cancelled	<u>52,949</u>	
	<u>151,852</u>	(1)
Total remaining principal amount which has neither been paid nor cancelled on all notes in default	\$295,216	(1)

(1) Source of information - OE form 574, "Report of Defaulted Loans"

TOTAL AMOUNT OF MATURED PRINCIPAL

Total amount advanced - all borrowers	\$1,788,273
Deduct - amounts not in Repayment status	
Student status at XYZ University	\$100,000
Student status at another Institution	100,000
Grace period (armed forces, Peace corps, Vista, hardship)	<u>374,096</u>
Total amounts not in repayment status	574,096
Total amount of matured principal	<u>1,214,177</u>

Source: OE form 1152-2 Fiscal-Operations Report  
 Part II; Lines 1b, 3.1, 3.2, 3.3(b);

PERCENTAGE OF LOANS IN DEFAULT 24.3%

$$\frac{295,216}{1,214,177} = 24.3\%$$

- Notes: 1. See attached instructions for computing default rate.  
 (Exhibit K)
2. If an institution has a default rate in excess of 10% it must be reported as a finding in the audit report. "Section III - Findings and Recommendations - Financial".

XYZ UNIVERSITY  
 NATIONAL DIRECT STUDENT LOAN PROGRAM  
 ANALYSIS OF CASH FLOW  
 FOR THE YEAR ENDED JUNE 30, 19\_\_

CASH BALANCE at beginning of year. \$ 41,029

ADD

Federal Contributions	\$125,170	
Institution's Contribution	<u>13,908</u>	139,078

REPROGRAMMED FUNDS

Sustained Audit Adjustments	-0-	
Program Refunds	<u>-0-</u>	-0-
Collections		95,951
Interest on loans cancelled		2,884
Interest on Loans - Collected		13,914
Other Income		<u>157</u>

TOTAL CASH AVAILABLE for the year \$293,013

FUNDS APPLIED

Funds Advanced To Students	\$229,575	
Administrative Expenses	9,183	
Cost of Litigation/and		
Other Collection Costs	<u>2,775</u>	

TOTAL FUNDS APPLIED 241,533

Cash balance at end of year \$ 51,480

SCHEDULE 4

XYZ UNIVERSITY  
 Schedule of Administrative Cost Allowance  
 For the year Ended June 30, 19\_\_

Total Administrative Cost Allowance (NDSL, CWS, and SEOG)	<u><u>\$12,303</u></u>
--------------------------------------------------------------	------------------------

Deduct Expenditures Related to Student Consumer  
 Information Service:

Preparation of Information dissemination topics	3,808
Dissemination of information to students	2,000
Salaries and Wages of employees	<u>3,800</u>

Total expenditures related to Student Consumer Information Services	<u>9,608</u>
------------------------------------------------------------------------	--------------

Balance of allowance	<u>2,695</u>
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Deduct expenditures related to administering  
 all title IV Federal student financial aid programs:

Salaries	1,600
Office Supplies	400
Postage	300
Computer Services	<u>395</u>

Total expenditures directly related to administering all title IV Federal student financial aid programs:	<u>2,695</u>
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Balance of cost allowance	<u><u>0</u></u>
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MULTIPLE GRANT PERIOD

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
BALANCE SHEET, JUNE 30, 19

ASSETS

CASH ON HAND AND IN DEPOSITORY . . . . .	\$	51,480
STUDENT LOANS RECEIVABLE (see Schedule 1)	\$1,180,866	
Less allowance for doubtful loans	<u>(35,426)</u>	\$ 1,145,440
INTEREST RECEIVABLE . . . . .		<u>2,296</u>
TOTAL ASSETS . . . . .		<u>\$ 1,199,216</u>

LIABILITIES AND FUND BALANCES

LIABILITIES . . . . .	\$	-0-
FUND BALANCES (DEFICIT):		
Capital:		
Federal contributions:		
Authorized . . . . .		1,295,962
Repaid . . . . .		-0-
Balance . . . . .		<u>1,295,962</u>
Institutional contributions:		
Authorized . . . . .		144,008
Repaid . . . . .		-0-
Balance . . . . .		<u>144,008</u>
Noncapital deficit (Exhibit A-1) . . . . .		<u>(240,754)</u>
Total fund balances . . . . .		<u>1,199,216</u>
TOTAL LIABILITIES AND FUND BALANCES . . . . .	\$	<u>1,199,216</u>

See Notes to Financial Statements

**CONTINUED**

**1 OF 3**

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
STATEMENT OF CHANGES IN FUND BALANCES  
TWO YEAR PERIOD ENDED June 30, 19\_\_  
AND THE PERIOD JANUARY 1959  
THROUGH JUNE 30, 19\_\_

	FOR THE PERIOD JANUARY 1959 THROUGH JUNE 30, 19__ (UNAUDITED)*	TWO YEAR PERIOD ENDED JUNE 30, 19__
<b>NON CAPITAL FUND BALANCE</b>		
<b>Additions:</b>		
Interest on loans collected	\$ 58,532	\$ 24,350
Reimbursement on loans - canceled	-0-	-0-
Interest on loans - canceled	29,227	5,047
Accrued Interest on loans	2,296	4,136
Other	57	157
<b>Total additions</b>	<b>\$ 90,212</b>	<b>\$ 33,690</b>
<b>Deductions:</b>		
Loan principal and interest canceled		
Teaching service	\$ 227,952	\$ 35,872
Military service	2,538	635
Death	2,480	1,400
Bankruptcy	5,758	5,758
<b>Total</b>	<b>238,728</b>	<b>43,665</b>
Administrative expense	51,248	16,070
Cost of litigation	5,564	4,856
Provision for doubtful loans	35,426	35,426
<b>Total deductions</b>	<b>330,966</b>	<b>100,017</b>
Net decrease for the period	(240,754)	(66,327)
Fund deficit, beginning of period	-0-	(174,427)
<b>NONCAPITAL FUND DEFICIT, JUNE 30, 19__</b>	<b>(\$240,754)</b>	<b>(174,427)</b>

	. . . . . CONTRIBUTIONS . . . . .			
	FOR THE PERIOD JANUARY 1959 THROUGH JUNE 30, 19__ (UNAUDITED)*		YEAR ENDED JUNE 30, 19__	
	FEDERAL	INSTITU- TIONS	FEDERAL	INSTITU- TIONS
<b>CAPITAL FUND BALANCES:</b>				
Fund balance, beginning of period . . . . .	\$ -0-	\$ -0-	\$1,058,792	\$117,656
Add authorized contributions . . . . .	1,295,962	144,008	237,170	26,252
<b>Fund balance, June 30, 19__ (end of period)</b>	<b>\$1,295,962</b>	<b>\$144,008</b>	<b>\$1,295,962</b>	<b>\$144,008</b>

\*If applicable

Note: Exhibit A-1 must include the comment required on page 75 of the guide regarding the OE 1152-2 fiscal-operations report.

XYZ UNIVERSITY  
COLLEGE WORK-STUDY PROGRAM  
BALANCE SHEET  
JUNE 30, 19

Assets

Cash . . . . .	\$ -0-
Federal funds receivable . . . . .	<u>500.00</u>
Total assets . . . . .	<u><u>\$500.00</u></u>

Liabilities and Fund Balances

Accrued wages Payables . . . . .	\$500.00
Other Expenses Payable (Attach Schedule) . . . . .	-0-
Fund balances . . . . .	<u>-0-</u>
Total liabilities and fund balances . . . . .	<u><u>\$500.00</u></u>

See notes to financial statements.

XYZ UNIVERSITY  
COLLEGE WORK-STUDY PROGRAM  
STATEMENT OF CHANGES IN FUND BALANCE  
TWO YEAR PERIOD ENDED JUNE 30, 19\_\_

Additions:		
Total grant award authorization (1)		\$114,000
Deduct:		
Amount of grant award not requested or deposited (unexpended CWS grant award authorization) (2)	16,560	
Balance - Funds provided by Federal Government (3)		97,440
Add - Funds Transferred From SEOG Program		-0-
Add - Funds provided by institution		23,200
<b>Total Funds Provided</b>		<b>\$120,640</b>
Deductions:		
Wages:		
On Campus:		
Federal share	\$77,600	
Institution share	19,400	
Off Campus:		
Federal share	15,200	
Institution share	3,800	
		\$116,000
Administrative expenses		4,640
<b>Total</b>		<b>\$120,640</b>
Net Increase (decrease) for the year (4)		-0-
Fund Balance, beginning of year		-0-
Fund Balance, end of year		<u>\$ -0-</u>

## Notes:

- (1) Total grant award authorization is the approved level of Federal expenditures shown on the allocation letter for the grant award period. The amount of the grant available for expenditures.
- (2) Amount of grant award not requested or deposited. This is the difference between total grant award authorization and total Federal funds provided. In situations where the institution expended all funds received from the Federal Government, this line is also the Unexpended CWS grant award authorization (line 11, OE 1152-4).
- (3) Funds provided by Federal Government is the total amount of cash received or requested from HEW on the grant award documents.
- (4) In situations where the institution does not spend all of the Federal funds requested or deposited; the difference between total funds provided and total expenditures (deductions) is the fund balance for the period.

See Notes to Financial Statements

Note: Items (1) through (4) are for the information of the auditors and should not be included on exhibit B-1 in the audit report. However, Exhibit B-1 must include the comment required on page 75 of the guide regarding the OE 1152-4 fiscal-operations report.



XYZ UNIVERSITY  
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM  
BALANCE SHEET  
JUNE 30, 19\_\_

ASSETS

Cash	\$740.00
Refund due from institution	<u>-0-</u>
Total assets	<u>\$740.00</u>

Liabilities and Fund Balance

Liabilities	\$ -0-
Fund balance	<u>740.00</u>
Total liabilities and fund balance	<u>\$740.00</u>

See notes to financial statements.

XYZ UNIVERSITY  
 SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM  
 STATEMENT OF CHANGES IN FUND BALANCE  
 TWO YEAR PERIOD ENDED JUNE 30, 19\_\_

Additions:		
Total grant award authorization		\$33,605
Deduct:		
Amount of grant award not requested or deposited (unexpended SEOG grant award authorization)		<u>-0-</u>
Balance - Funds provided by Federal Government		\$33,605
Add - Funds transferred from CWS program		<u>-0-</u>
Total Additions		\$33,605
Deductions:		
Initial awards	\$19,000	
Continuing awards	12,600	
Administrative expense	<u>1,265</u>	
Total DEDUCTIONS		<u>\$32,865</u>
Increase (decrease) during the period (unexpended SEOG authorization)		<u>740</u>
Fund balance, beginning of year		-0-
Fund balance, end of period		<u>\$ 740</u>

Note: Exhibit C-1 must include the comment required on page 75 of the guide regarding the OE 115-3 fiscal-operations report.

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
ANALYSIS OF STUDENT LOANS RECEIVABLE  
TWO YEAR PERIOD ENDED JUNE 30, 19\_\_  
AND THE PERIOD JANUARY 1959  
THROUGH JUNE 30, 19\_\_

	FOR THE PERIOD JANUARY 1959 THROUGH June 30, 19__ (UNAUDITED)*	YEAR ENDED JUNE 30, 19__
BALANCE, BEGINNING OF PERIOD	\$ -0-	\$1,074,073
FUNDS ADVANCED TO STUDENTS	1,788,273	229,575
TOTAL	<u>\$1,788,273</u>	<u>\$1,303,648</u>
LESS CREDITS:		
Collections	393,611	95,951
Cancellations:		
Teaching service	201,441	19,960
Military service	4,137	313
Death	2,460	800
Bankruptcy	5,758	5,758
Principal amount on loans assigned to OE (2)	<u>-0-</u>	<u>-0-</u>
Total credits	<u>607,407</u>	<u>122,782</u>
BALANCE, at JUNE 30, 19__	<u>\$1,180,866</u>	<u>\$1,180,866</u>

\*If applicable.

- Notes: 1. Schedule 1 must include the comment required on page 75 of the guide regarding the OE 1152-2 fiscal-operations report.
2. If loans have been assigned to OE the corresponding charge should be accounted for in the non-capital fund balance.

XYZ UNIVERSITY  
 NATIONAL DIRECT STUDENT LOAN PROGRAM  
 COMPUTATION OF DEFAULT RATE  
 AS OF JUNE 30, 197  
 (CUMULATIVE INFORMATION)

PRINCIPAL OUTSTANDING ON LOANS IN DEFAULT

Total amount advanced on loans in default	\$446,068	(1)
Deduct:		
Principal amount repaid	\$ 98,903	
Principal amount cancelled	<u>52,949</u>	
	<u>151,852</u>	(1)
Total remaining principal amount which has neither been paid nor cancelled on all notes in default	\$295,216	(1)

(1) Source of information - OE form 574, "Report of Defaulted Loans"

TOTAL AMOUNT OF MATURED PRINCIPAL

Total amount advanced - all borrowers	\$1,788,273
Deduct - amounts not in Repayment status	
Student status at XYZ University	\$100,000
Student status at another Institution	100,000
Grace period (armed forces, Peace corps, Vista, hardship)	<u>374,096</u>
Total amounts not in repayment status	<u>574,096</u>
Total amount of matured principal	<u>1,214,177</u>

Source: OE form 1152-2 Fiscal-Operations Report  
 Part II; Lines 1b, 3.1, 3.2, 3.3(b);

PERCENTAGE OF LOANS IN DEFAULT 24.3%

$$\frac{295,216}{1,214,177} = 24.3\%$$

- Notes: 1. See attached instructions for computing default rate. (Appendix K)
2. If an institution has a default rate in excess of 10% it must be reported as a finding in the audit report. "Section III - Findings and Recommendations - Financial".

XYZ UNIVERSITY  
 NATIONAL DIRECT STUDENT LOAN PROGRAM  
 ANALYSIS OF CASH FLOW  
 TWO YEAR PERIOD ENDED JUNE 30, 19\_\_

CASH BALANCE at beginning of year. \$ 18,835

ADD

Federal Contributions	\$237,170	
Institution's Contribution	<u>26,352</u>	263,522

REPROGRAMMED FUNDS

Sustained Audit Adjustments	-0-	
Program Refunds	<u>-0-</u>	-0-

Collections		167,915
Interest on loans cancelled		5,047
Interest on Loans - Collected		24,350
Other Income		<u>157</u>

TOTAL CASH AVAILABLE for the period \$479,826

FUNDS APPLIED

Funds Advanced To Students	\$207,420	
Administrative Expenses	16,070	
Cost of Litigation/and Other Collection Costs	<u>4,856</u>	

TOTAL FUNDS APPLIED 428,346

Cash balance at end of period \$ 51,480

XYZ UNIVERSITY  
 SCHEDULE OF ADMINISTRATIVE COST ALLOWANCE  
 TWO YEAR PERIOD ENDED JUNE 30, 19\_\_

Total Administrative Cost Allowance  
 (NDSL, CWS, and SEOG) \$ 26,180

Deduct Expenditures Related to Student Consumer  
 Information Service:

Preparation of information dissemination topics 7,800

Dissemination of information to students 4,300

Salaries and wages of employees 10,200

Total expenditures related to Student Consumer  
 Information Services \$22,300

Balance of allowance \$ 3,880

Deduct Expenditures Related to administering all  
 Title IV federal student financial aid programs;

Salaries 2,000

Office Supplies 800

Postage 540

Computer Services 540

Total expenditures directly related to administering  
 all Title IV federal student financial aid programs: \$ 3,880

Balance of Cost Allowance \$ -0-

SCHEDULE 5

XYZ UNIVERSITY

NATIONAL DIRECT STUDENT LOAN PROGRAM  
STATEMENT OF CHANGES IN FUND BALANCES  
FOR THE YEARS ENDED JUNE 30, 19\_\_ AND 19\_\_  
(UNAUDITED)

	YEAR ENDED June 30, 19__	YEAR ENDED June 30, 19__		
<b>NONCAPITAL FUND BALANCE:</b>				
<b>Additions:</b>				
Reimbursement of loans - cancelled	\$ -0-	\$ -0-		
Interest on loans - collected	10,436	13,914		
Interest on loans - canceled	2,163	2,884		
Accrued Interest on loans	1,840	2,296		
Other	-0-	157		
<b>Total additions</b>	<b>\$ 14,439</b>	<b>\$ 19,251</b>		
<b>Deductions:</b>				
<b>Loan principal and interest canceled:</b>				
Teaching service	\$ 15,374	\$ 20,498		
Military service	272	363		
Death	600	800		
Bankruptcy	-0-	5,758		
<b>Total</b>	<b>\$ 16,246</b>	<b>\$ 27,419</b>		
Administrative expenses	6,887	9,183		
Cost of litigation	2,081	2,775		
Provision for doubtful loans	-0-	35,426		
<b>Total Deductions</b>	<b>25,214</b>	<b>74,803</b>		
Net Decrease for the period	10,775	55,552		
Fund deficit beginning of period	174,427	185,202		
<b>FUND DEFICIT, END OF PERIOD</b>	<b>\$185,202</b>	<b>\$240,754</b>		
<b>CONTRIBUTIONS:</b>				
	YEAR ENDED June 30, 19X1	YEAR ENDED June 30, 19X2		
	<u>Federal</u>	<u>Institution</u>	<u>Federal</u>	<u>Institution</u>
<b>CAPITAL FUND BALANCES:</b>				
Fund balance, beginning of period	\$ 1,058,792	\$ 117,656	\$ 1,170,792	\$ 130,100
Add authorized contributions	112,000	12,444	125,170	13,908
<b>Fund balance, end of period</b>	<b>\$ 1,170,792</b>	<b>\$ 130,100</b>	<b>\$ 1,295,962</b>	<b>\$ 144,008</b>

XYZ UNIVERSITY  
 COLLEGE WORK-STUDY PROGRAM  
 STATEMENT OF CHANGES IN FUND BALANCE  
 FOR THE YEARS ENDED JUNE 30, 19\_\_ AND 19\_\_  
 (Unaudited)

	<u>June 30, 19</u>	<u>June 30, 19</u>
<b>Additions:</b>		
Total grant award authorization	\$ 54,000	\$ 60,000
Less - amount of grant award not requested or deposited (unexpended CWS grant authorization)	<u>7,800</u>	<u>8,760</u>
Balance-Funds provided by Federal Government	46,200	51,240
Add - Funds transferred from SEOG Program Funds provided by institution	<u>-0-</u> <u>11,000</u>	<u>-0-</u> <u>12,200</u>
Total additions	<u>\$ 57,200</u>	<u>\$ 63,440</u>
<b>Deductions:</b>		
Wages:		
On Campus:		
Federal share	\$ 36,800	\$ 40,800
Institution share	9,200	10,200
Off Campus:		
Federal share	7,200	8,000
Institution share	<u>1,800</u>	<u>2,000</u>
	<u>55,000</u>	<u>61,000</u>
Administrative expenses	<u>2,200</u>	<u>2,440</u>
Total deductions	<u>57,200</u>	<u>63,440</u>
Net increase (decrease) for the year	-0-	-0-
Fund balance, beginning of year	<u>-0-</u>	<u>-0-</u>
Fund balance, end of year	<u>\$ -0-</u>	<u>\$ -0-</u>



SCHEDULE 7

XYZ UNIVERSITY  
 SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM  
 STATEMENT OF CHANGES IN FUND BALANCE  
 FOR THE YEARS ENDED JUNE 30, 19\_\_ AND 19\_\_  
 (UNAUDITED)

	<u>June 30, 19</u>	<u>June 30, 19</u>
Additions:		
Total grant award authorization	\$ 15,105	\$ 18,420
Less - amount of grant award not requested or deposited (unexpended SEOG grant award authorization)	<u>-0-</u>	<u>-0-</u>
Balance - Funds provided by Federal Government	15,185	18,420
Add - Funds transferred from CWS program	<u>-0-</u>	<u>-0-</u>
Total additions	<u>\$15,185</u>	<u>\$18,420</u>
Deductions:		
Initial awards	9,000	10,000
Continuing awards	5,600	7,000
Administrative expenses	<u>585</u>	<u>680</u>
Total deductions	<u>\$15,185</u>	<u>\$17,680</u>
Increase (decrease) during the year (unexpended SEOG authorization)	-0-	740
Fund balance, beginning of year	<u>-0-</u>	<u>-0-</u>
Fund balance, end of year	<u>\$ -0-</u>	<u>\$ 740</u>

Appendix A

HEW Regional Audit Directors

States Covered

REGION I	Mr. Edward A. Parigian HEW Regional Audit Director Bulfinch Building 15 New Chardon Street Boston, Massachusetts 02114 617-223-4388	Connecticut, Maine, Vermont, Massachusetts, New Hampshire Rhode Island
REGION II	Mr. Bernard Luger HEW Regional Audit Director Federal Building 26 Federal Plaza New York, New York 10007 212-264-4620	New York, New Jersey, Puerto Rico, Virgin Islands
REGION III	Mr. Gervus A. Rafalko HEW Regional Audit Director P. O. Box 13716 Philadelphia, Pennsylvania 19101 215-596-6743	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
REGION IV	Mr. Emil A. Trefzger, Jr. HEW Regional Audit Director Suite 1402 101 Marietta Tower Atlanta, Georgia 30323 404-221-2446	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
REGION V	Mr. Asher Tenner HEW Regional Audit Director 300 South Wacker Drive Chicago, Illinois 60606 312-353-5165	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
REGION VI	Mr. Glyndol J. Taylor HEW Regional Audit Director 1200 Main Tower Building Dallas, Texas 75202 214-729-3359	Arkansas, Louisiana, New Mexico, Oklahoma, Texas
REGION VII	Mr. John C. Stanford HEW Regional Audit Director 601 East 12th Street Kansas City, Missouri 64106 816-374-3591	Iowa, Kansas, Missouri, Nebraska

HEW Regional Audit Directors

States Covered

REGION VIII	Mr. Leo Milner HEW Regional Audit Director 11037 Federal Building 1961 Stout Street Denver, Colorado 80294 303-837-4221	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
REGION IX	Mr. Herbert Witt HEW Regional Audit Director Federal Office Building 50 United Nations Plaza San Francisco, California 94102 415-556-5766	Arizona, California, Hawaii, Nevada
REGION X	Mr. Kenneth E. Sill HEW Regional Audit Director Arcade Plaza Building 1321 Second Avenue Seattle, Washington 98101 206-442-0452	Alaska, Idaho, Oregon, Washington

OFFICE OF STUDENT FINANCIAL ASSISTANCE  
REGIONAL OFFICES

Region

- I                   Regional Administrator  
                    William T. Logan, Jr.  
                    Office of Education, HEW  
                    John F. Kennedy Federal Building  
                    Boston, Massachusetts  
                    617-223-7205
- II                   Regional Administrator  
                    Josue E. Diaz  
                    Office of Education, HEW  
                    26 Federal Plaza  
                    New York, New York 10007  
                    212-264-4045
- III                  Regional Administrator  
                    Robert Smallwood  
                    Office of Education, HEW  
                    P. O. Box 13716  
                    3535 Market Street  
                    Philadelphia, Pennsylvania 19101  
                    215-596-1018
- IV                  Regional Administrator  
                    Carmen L. Battaglia  
                    Office of Education, HEW  
                    101 Marietta Tower, Third Floor  
                    Atlanta, Georgia 30323  
                    404-526-5008
- V                   Regional Administrator  
                    Francis J. Yanni  
                    Office of Education, HEW  
                    300 South Wacker Drive  
                    Chicago, Illinois 60606  
                    312-353-5127

Region

- VI Regional Administrator  
Arthur Lee Hardwick (Acting)  
Office of Education, HEW  
1200 Main Tower Building  
Dallas, Texas 75202  
214-767-3852
- VII Regional Administrator  
Joseph A. Wetlstein (Acting)  
Office of Education, HEW  
601 East 12th Street  
Kansas City, Missouri 64106  
816-837-5875
- VIII Regional Administrator  
Irwin E. Kirk (Acting)  
Office of Education, HEW  
11037 Federal Office Building  
19th and Stout Streets  
Denver, Colorado 80294  
303-837-4128
- IX Regional Administrator  
Charles F. Hampton  
Office of Education, HEW  
50 United Nations Plaza  
San Francisco, California 94102  
415-556-8382
- X Regional Administrator  
Philips W. Rockefeller  
Office of Education, HEW  
Arcade Building - M. S. 1506  
1321 Second Avenue  
Seattle, Washington 98101  
206-442-0434

Headquarters

Office of Education/BSFA  
Division Certification and Program Review  
ROB 3 - Room 4310  
7th & D Streets, S. W.  
Washington, D. C.  
202-245-2475

LETTER OF ENGAGEMENT  
FOR AUDITING SERVICES

TO A CAMPUS-BASED PROGRAM INSTITUTION  
(SUGGESTED CONTENT)

An institution utilizing an independent auditor to perform the examination described in this Audit Guide may be engaging the same auditor already involved in examining the general financial statements of the institution. In other instances, the independent auditor may be engaged exclusively to perform the Campus-Based Programs examination. In either case, it is advisable to have a separate engagement letter setting forth the special circumstances of the three Program examinations in addition to any other general conditions which may be appropriately set forth in writing to assure that both parties understand their joint and several obligations.

The form of the engagement letter may vary from the relatively informal "proposal letter" type frequently prepared by independent auditors and countersigned by the institution, to a more formal type of document prepared by the institution and countersigned by the auditor, which is similar in style to purchase orders used to acquire services from all independent contractors. Regardless of the form and style, the matters described in the following paragraphs should be covered by the engagement letter:

Objectives of Engagement

The general objectives set forth in section 1.4 of the Audit Guide should be spelled out in the letter or incorporated by reference. Since the objectives of this type of examination are somewhat different from that of general purpose financial statements, mutual understanding of the objectives of this special examination is critical to the satisfactory completion of the engagement. The grant period covered by the examination should be set forth. For institutions

having multiple campuses with decentralized funding and/or administration of the BEOG Program, the campuses to be covered by the examination should be designated.

Scope of Engagement

The scope of the examination should be described in the letter, and generally should set forth the following representations by the auditor:

1. That his examination will be made in accordance with the financial and compliance elements of the Standards for Audit of Governmental Organizations, Programs, Activities & Functions issued by the Comptroller General of the United States in June 1972 (1974 reprint).

2. That, accordingly, the auditor will conduct such tests of the accounting records and such other auditing procedures as he considers necessary in the circumstances.

3. That the Guide for Audits of NDSL, CWS, and SEOG Programs, Department of Health, Education, and Welfare, dated \_\_\_\_\_ 1978 was used in the examination.

4. That the purpose of the examination is to achieve the objectives set forth earlier and to report thereon.

How the Engagement is to be Conducted

The engagement letter should contain a description of the conditions which the auditor and the institution are obliged to meet in the conduct of the engagement and for a period after the examination is completed. Special conditions which should be referred to in the letter include:

1. Required communication with the HEW Regional Audit Director when the auditor believes that material errors or irregularities may exist (see Audit Guide, paragraph 1.5).

2. Availability of working papers for review and requirements for retention of working papers (see Audit Guide, paragraph 1.6).

General conditions which should be set forth in the engagement letter include such matters as:

1. Timing of auditor's field work, both interim and final.
2. Availability of records supplied by institution.
3. Support resources (space, personnel, etc.) and coordination efforts to be supplied by the institution. This would include preparation of working papers and schedules, and arranging appointments and other efforts which the institution will undertake that may have a significant impact on the extent of time required of the auditor and, hence, his fees.
4. Estimated date of delivery of his report.
5. The number of copies of the report to be provided by the auditor. This should cover the 13 copies required by HEW Regional Audit Director (see paragraph 3.6) and such additional copies (at least 2) as the institution requires.

#### Fees and Expenses

The cost of an examination will vary substantially, based on a number of factors including the size of the program, strength of the internal controls, availability of records, degree of compliance, support provided by the institution, and familiarity of institutional and audit personnel with the special requirements of the Program and Audit Guide. Where the auditor performs the Campus-Based Program audits in addition to, but simultaneously with, the examination of the institution's general financial statements, certain economies should be realized as contrasted with an audit of the three Programs alone.



In any event, the engagement letter should set forth an estimate of fees and expenses relative to this examination, as well as the manner of payment. This may be set forth as a maximum fee, fee range, or single estimated fee. Similarly, estimated expenses for out-of-pocket costs relating directly to the engagement should be set forth.

The institution may require that further detail be set forth in the letter with respect to the estimated level of effort of professional personnel (man-hours/man-days) to be provided by the auditor in consideration of the fees quoted. Provision should be made in the letter to protect the institution against significant unanticipated costs in excess of the original estimate. This may be achieved by including in the letter a requirement that the auditor notify the institution on a timely basis as soon as it is evident that the cost estimate will be exceeded beyond some margin or the maximum cost quoted. The institution should reserve the right in the letter to limit its obligation to the auditor to a certain sum until that sum is amended in writing by both parties.

The timing of payment of fees and expenses, as well as the documentation to be provided by the auditor in his bill, should be set forth in the letter. Interim billings, with final billing after delivery of the auditor's report, are a common practice. Interim and final bills should contain sufficient supporting information to enable the institution to determine that the payments it is making are in accordance with all of the terms of the engagement letter, especially with regard to the basis described for determining the fees and expenses.

#### Execution of Engagement Letter

The engagement letter should be dated and signed by the auditor (member of the firm) and by an authorized institutional officer. Copies should be provided to both parties. Any amendments of significant matters covered by the engagement letter should be similarly executed in writing.



other activities as set forth in the Guide for Audits of Campus Based Programs. The report shall be prepared as prescribed by the foregoing guide and shall be furnished to the Institution's Board of Directors. Thirteen copies of the final audit report must be furnished directly by the Auditor to the HEW Regional Audit Director (see Appendix A of prescribed audit guide for addresses).

B. The Auditor shall familiarize himself with applicable requirements as set forth in the audit guide prescribed in "A" above.

2. The Institution shall furnish the following to the Auditor:

A. All financial records, books of original entry, supporting documents and other related records, as requested.

B. Copies of the Institution's corporate charter, by laws, minutes of the Board of Directors, policy directives, grant agreements, contracts, leases, budgets, and other documents or data pertinent to the programs Official Authorization Letter for the period July 1, 1977 through June 30, 1978, and such other information as may be required in the conduct of his examination.

C. Adequate working space and other facilities for the conduct of his examination.

D. Assistance by Institution's staff - which is considered desirable and necessary - including, but not limited to, the preparation of account analyses, summaries, and other working papers which

may reduce the time required for the examination and,  
consequently, audit costs.

3. The Auditor shall promptly inform a responsible official of the Institution and the HEW Regional Audit Director regarding reasonable indication of defalcation or other irregularities that may come to his attention in connection with the examination.
4. The Auditor shall commence his examination on or about the day of \_\_\_\_\_, 19\_\_\_\_, and as expeditiously as possible complete his report within approximately \_\_\_\_\_ calendar days. Provided further that such estimated completion date may be modified by mutual agreement of the parties.
5. It is understood that the fees for the services of the Auditor as set forth in paragraph 1A above shall be computed according to the following schedule of hourly rates:

Junior accountants.....	\$ _____	\$ _____
Semi-senior accountants.....	\$ _____	\$ _____
Senior accountants.....	\$ _____	\$ _____
Managers .....	\$ _____	\$ _____
Principals .....	\$ _____	\$ _____
Clerical Staff .....	\$ _____	\$ _____

Other direct expenses relating to the Engagement may also be billed by the Auditor.

6. The Auditor shall exert every effort to perform the services set forth in paragraphs 1A, 1B, 3, and 4 of this Engagement for an amount not to exceed \$ \_\_\_\_\_. The Auditor further agrees to notify the Institution if and when it is evident that this cost level will be exceeded. Such notification shall include a statement of the reasons why the Auditor will be unable to complete the services without exceeding the agreed upon cost level and a statement of the additional amount of funds necessary to complete the services. It is understood that the amount payable pursuant to this paragraph of this Engagement shall at that time be subject to revision pursuant to a mutually agreed upon written amendment, but that in no event shall the amount payable pursuant to this paragraph of this Engagement exceed \$ \_\_\_\_\_ in the absence of a written amendment to the contrary.
7. Payment shall be made by the Institution upon receipt of the Auditor's final report, prepared in accordance with the provisions of this Engagement, and the Auditor's itemized statement.
8. The Auditor agrees to retain all working papers, audit programs and other documents prepared or obtained during the course of the audit for a minimum period of five years or for a longer period where conditions of exceptions exist as identified in section 1.6 of the prescribed audit guide, and to make them available upon

request during this period for the use of the Institution, the DHEW auditors, and/or the U.S. General Accounting Office.

9. IN WITNESS WHEREOF, the Institution and the Auditor have executed this Letter of Engagement as of the date indicated below.

Auditor \_\_\_\_\_ Institution \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Title \_\_\_\_\_ Title \_\_\_\_\_

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
BUREAU OF STUDENT FINANCIAL ASSISTANCE  
AGREEMENT COVERING INSTITUTIONAL PARTICIPATION IN  
PROGRAMS OF STUDENT FINANCIAL ASSISTANCE

XYZ University

Name of Institution

Any City, USA 20202

Address of Institution

8081064821A1

IRS Employer Identification Number

(referred to below as the "Institution") and the Commissioner of Education, U.S. Department of Health, Education, and Welfare (referred to below as the "Commissioner") agree to the terms of ARTICLES I, II, XI and XII, and the other ARTICLES of this agreement that are applicable to each program identified in ARTICLE I.

ARTICLE I. SCOPE OF COVERAGE

1. This Agreement covers the Institution's eligibility to participate in each of the following checked programs:

- (X) BASIC EDUCATIONAL OPPORTUNITY GRANTS PROGRAM (BEOG) - Regular Disbursement System 20 U.S.C. 1070a; 45 CFR Part 190.
- ( ) BASIC EDUCATIONAL OPPORTUNITY GRANTS PROGRAM (BEOG) - Alternate Disbursement System 20 U.S.C. 1070a; 45 CFR Part 190 Subpart H.
- (X) NATIONAL DIRECT STUDENT LOAN PROGRAM (NDSL)\* - 20 U.S.C. 1087aa-1087ff; 45 CFR Part 144.
- ( ) GUARANTEED STUDENT LOAN PROGRAM (GSLP) - 20 U.S.C. 1071-1087-4; 45 CFR Part 177.
- (X) SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM (SEOG) - 20 U.S.C. 1070b; 45 CFR Part 176.
- (X) COLLEGE WORK STUDY PROGRAM (CWS) - 42 U.S.C. 2751-2756; 45 CFR Part 175, Subpart A.
- ( ) JOB LOCATION AND DEVELOPMENT PROGRAM - 42 U.S.C. 2756a; 45 CFR Part 175, Subpart B.

\* The National Direct Student Loan Program is a continuation of the National Defense Student Loan Program authorized by Title II of the National Defense Education Act of 1958, as amended. (20 U.S.C. 421-429)

2. The Institution agrees to comply with the statute of each program checked, any applicable provision of the "General Provisions Relating to Student Assistance Programs" found in Title IV-F of the Higher Education Act of 1965, as amended (20 U.S.C. 1088-1088g) ("General Provisions") and any regulations, as they become effective, implementing those statutory requirements.

3. The Institution agrees to use the funds advanced to it under each program for the purposes specified in, and in accordance with the provisions set forth in, the statute authorizing the program, the "General Provisions", and the regulations in effect implementing that program statute and the "General Provisions."

4. The Institution agrees to comply with Title VI of the Civil Rights Act of 1964, as amended, and the regulations implementing that act, 45 CFR Part 80 and 81 (discrimination on the basis of race, color, or national origin); Title IX of the Education Amendments of 1972 and its implementing regulation, 45 CFR Part 86 (discrimination on the basis of sex); and section 504 of the Rehabilitation Act of 1973, 45 CFR Part 84 (discrimination on the basis of physical handicap).

ARTICLE II. PROVISIONS APPLICABLE TO ALL PROGRAMS

The Institution agrees to perform the functions and activities required to be performed under paragraphs 2 and 3 of ARTICLE I of this agreement. These functions and activities include, but are not limited to:

1. Student Eligibility

Before paying any money under any program (other than the Guaranteed Student Loan Program), the Institution agrees to:

- (a) determine that a student is eligible under the specific program regulations for that assistance, and
- (b) have on file the required executed affidavit of educational purpose.

Before providing any information to a lender under the Guaranteed Student Loan Program, the Institution agrees to determine that a student is eligible for that loan.

## 2. Administrative Allowance

If an Institution receives an administrative allowance under any program, it agrees to use those funds to carry out the Student Consumer Information requirements set forth in section 493A of the Higher Education Act of 1965, as amended, and the Student Consumer Information Services regulations, 45 CFR 178. The Institution agrees to use any administrative allowance remaining after it carries out those activities to administer the Federal student financial assistance programs.

## ARTICLE III. BASIC GRANTS PROGRAM - REGULAR DISBURSEMENT SYSTEM

The Institution agrees to perform the functions and activities set forth in Subpart G of the program regulations (45 CFR 190, Subpart G). These functions include, but are not limited to:

1. determining the eligibility of students to receive awards,
2. computing the amount of Basic Grants according to Subpart F of the program regulations and the payment schedule provided by the Commissioner,
3. documenting and verifying the information on the Student Eligibility Report for students selected by the Commissioner,
4. paying funds to the student directly or to the student's account,
5. recovering award overpayments, and
6. maintaining records and accounting for funds.

## ARTICLE IV. BASIC GRANTS PROGRAM - ALTERNATE DISBURSEMENT SYSTEM

Under the Alternate Disbursement System the Institution agrees to perform the functions set forth in Subpart H of the program regulations. (45 CFR 190, Subpart H). These functions include:

1. providing each student, upon request, with the appropriate form needed to calculate the student's award,
2. providing information necessary for the computation and disbursement of awards including confirming that the student is eligible for a payment,
3. certifying the accuracy of the information supplied by the student,
4. maintaining records relating to a Basic Grant recipient's enrollment status, costs of attendance and period of enrollment, and
5. providing access to the Commissioner or his designate to those records.

## ARTICLE V. NATIONAL DIRECT STUDENT LOAN - SPECIFIC PROVISIONS

1. The Institution agrees to establish and maintain a National Direct Student Loan Fund (Fund) for the purpose of making loans to eligible students. (Any student loan Fund established under an agreement under Section 204 of Title II of the National Defense Education Act of 1958, as amended, is considered established under Section 463 of Title IV, Part E, of the Higher Education Act of 1965, as amended. Any asset of that Fund is considered to be an asset of the Fund established under this Agreement.)

2. The Institution agrees to deposit promptly in the Fund:

- (a) Federal Capital Contributions received by the Institution,
- (b) an amount from its own funds, equal to not less than one-ninth of the Federal contribution (Institutional capital contribution),
- (c) collections of principal and interest on loans made from the Fund,
- (d) penalty charges collected according to Subpart B of the program regulations,
- (e) payments made to the Institution by the Commissioner as a result of cancellations on loans made after June 30, 1972 (Direct Loans),
- (f) any other earnings of the Fund, and
- (g) short-term interest-free loans made by the Institution to the Fund in anticipation of collections.

3. The Institution agrees to use the Fund only for:

- (a) loans to students in accordance with the program regulations,
- (b) an administrative allowance in accordance with ARTICLE II, paragraph 2 of this Agreement,
- (c) costs of litigation and other collection costs as specified in Subpart C of the program regulations,
- (d) capital distributions as provided in Subpart A of the program regulations, and
- (e) repayment to the institution of the short-term loans made in accordance with subparagraph 2 (g) of this Article.

4. The Institution agrees to use due diligence in the collection of loans made from the Fund according to the requirements of Subpart C of the program regulations. If a loan has been in default for at least two years despite the Institution's exercise of due diligence, the Institution may assign its rights to the note to the United States Government without recompense.



5. The Institution agrees to submit a report to the Commissioner on at least a semi-annual basis indicating the total number of loans made from its Fund which are in default for 120 days for loans repayable in monthly installments or for 180 days for loans repayable in less frequent installments, and

6. The Institution agrees to make loans from the Fund reasonably available (to the extent of available funds in the Fund) to all eligible students in need thereof.

#### ARTICLE VI. GUARANTEED STUDENT LOAN - SPECIFIC PROVISIONS

1. The Institution agrees to comply with all program statutes and regulations.

2. This Agreement does not authorize the Institution to make loans under the Guaranteed Student Loan Program.

#### ARTICLE VII. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS - SPECIFIC PROVISIONS

1. The Institution agrees to consider the source of a student's income and that of any individual or individuals upon whom the student relies primarily for support and agrees to make an appropriate review of the assets of the student and these individuals in determining whether the student has exceptional financial need.

2. The Institution, either on its own or in cooperation with other eligible institutions, agrees to undertake a vigorous effort to identify youths of exceptional financial need and encourage them to continue their education beyond secondary school through the development of close liaison with high school principals, counselors and community leaders. The Institution agrees, to the extent feasible, to make conditional commitments for Supplemental Grants to qualified secondary students who, but for such grants, would be unable to receive a postsecondary education. In making commitments, the Institution further agrees to place special emphasis upon students in grades 11 or lower who show evidence of academic or creative promise.

3. The Institution agrees to make Supplemental Grants reasonably available (to the extent of available funds) to all eligible students.

#### ARTICLE VIII. COLLEGE WORK-STUDY PROGRAM - SPECIFIC PROVISIONS

1. The Institution agrees to conduct a program of part-time employment for eligible students in work for the Institution itself (except in the case of a proprietary institution of higher education), or work in the public interest for a Federal, State, or local public agency or a private non-profit organization under an arrangement between the Institution and the agency or organization. That work is not considered in the public interest if:

- (a) it is primarily for the benefit of the members of a limited membership organization (such as a credit union, a fraternal or religious order, or a cooperative), rather than for the public at large,
- (b) it is to be performed for an elected official other than as part of the regular administration of Federal, State, or local government, or
- (c) it is work for which the political support or affiliation of the student is taken into consideration.

2. In selecting students for employment, the Institution agrees to give preference to students with the greatest financial need, taking into account grant assistance provided the student from any public or private sources.

3. The Institution agrees to furnish employment only to a student who:

- (a) has financial need;
- (b) shows evidence of academic or creative promise and capability of maintaining good standing in that course of study while employed; and
- (c) has been accepted for enrollment at the institution as at least a half-time student or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there as at least a half-time student.

4. (a) The Institution agrees that the Federal share of the compensation of students employed under this Agreement will not exceed 80 percent of such compensation. ("Federal share" means the CWS funds allocated to the institution.)

(b) The Commissioner may approve a Federal share of more than 80 percent of the compensation under conditions set forth in Subpart A of the program regulations where the Institution has been officially designated a "developing institution of higher education," or the Institution can demonstrate that at least 50 percent of its students who are enrolled as at least half-time students have parents whose annual adjusted gross income is less than \$7,500.

5. The Institution agrees that no student employed in the College Work-Study Program will be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with the College Work-Study income is in excess of the

amount determined to be needed by the student for that semester (or other regular enrollment period). However, when that excess income equals \$200 or more, continued employment under the College Work-Study Program must not be subsidized with funds allocated to the Institution under this part.

6. The Institution agrees that employment under the College Work-Study Program will be made reasonably available (to the extent of the available funds) to all eligible students in the Institution in need thereof, and that equivalent employment offered or arranged by the Institution will be made reasonably available (to the extent of available funds) to all students in the Institution who desire employment.

7. An area vocational school agrees to the provisions of paragraph (1) through (6) of this Article and further agrees that a student in that school is eligible to participate in the College Work-Study Program only if the student:

- (a) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of that certificate (GED); and
- (b) Is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

#### ARTICLE IX. MAINTENANCE OF EFFORT - SEOG AND CWS PROGRAMS ONLY

1. For each award year in which an Institution receives an allocation under the Supplemental Educational Opportunity Grants Program or the College Work-Study Program, the Institution agrees to spend from its own scholarship and student aid programs, from sources other than funds received under this Agreement, an amount which is not less than its three year base level amount. The base level amount is calculated in accordance with the maintenance of effort section of the Supplemental Educational Opportunity Grants Program and College Work-Study Program regulations (45 CFR 176 and 175 respectively).

2. This Agreement is not a new agreement for purposes of the maintenance of effort requirements set forth in the Supplemental Educational Opportunity Grants and College Work-Study Program regulations.

#### ARTICLE X. JOB LOCATION AND DEVELOPMENT PROGRAM - SPECIFIC PROVISIONS

In establishing a Job Location and Development Program, or in expanding its own existing program, the Institution agrees to comply with the conditions set forth in 45 CFR 175 Subpart B which include, but are not limited to, the following:

1. The Institution certifies that the Federal funds used for this program can realistically be expected to help generate student wages exceeding in the aggregate the amounts of these Federal funds.
2. The Federal share of the cost of any Job Location and Development program, will not exceed 80 percent of the program's cost.
3. The Institution will continue to spend in its own job location and development programs, from sources other than funds received under Subpart B of the program regulations, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of this Agreement.
4. The Program will locate and develop jobs for students during and between periods of enrollment and will not locate or develop jobs for students to obtain upon graduation.
5. The Program will not:
  - (a) locate or develop jobs at the Institution, or
  - (b) displace currently employed workers, or impair existing contracts for services.
6. The Institution will submit an annual report to the Commissioner providing:
  - (a) the uses made of funds provided for the Job Location and Development Program regulations, and
  - (b) an evaluation of the effectiveness of the program in benefitting students of the Institution.
7. If funds are used to contract with another organization, the contract will include appropriate performance standards.
8. The effective date of the Job Location and Development Program will be the later of (a) July 1, 1977 or (b) the date on which this program is initiated by the Institution.

#### ARTICLE XI. AGREEMENT DURATION

1. Except for the Job Location and Development Program discussed in ARTICLE X, this Agreement is effective on the date executed by the Commissioner. This Agreement supersedes any prior Agreements between the Commissioner and the Institution concerning the administration of any Title IV program covered by this Agreement.

2. This Agreement terminates:

- (a) On the date the Institution undergoes a change of ownership which results in a change of control, or
- (b) On June 30th of the award year in which the Institution undergoes a certification review.

3. A certification review means a formal appraisal by the Commissioner of the Institution's financial responsibility and administrative capability to administer and participate in the programs covered by this Agreement.

4. The Commissioner or the Institution may terminate this Agreement under a program regulation or under the Limitation, Suspension or Termination regulations (45 CFR 168). In the event of termination by either party, the termination will become effective on the date specified by the applicable regulation.

ARTICLE XII. SIGNATORIES

As Chief Executive Officer of this Institution, I agree that this Institution, its branch campus(es) (if any) and its representatives will comply with all laws and program regulations applicable under this Agreement.

\_\_\_\_\_  
Signature of Chief Executive Officer

John Doe

\_\_\_\_\_  
Name

Business Manager

\_\_\_\_\_  
Title

July 8, 1978  
Date

This agreement includes the following Branch Campus(es):

Name(s) and Address(es) of Branch Campus(es)

IRS-EI Number

None

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\_\_\_\_\_  
For the Commissioner

\_\_\_\_\_  
Date



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
BUREAU OF POSTSECONDARY EDUCATION  
WASHINGTON, D.C. 20202

Dr. Joe Smith  
President  
XYZ University  
Any City USA 20202

IN REPLY REFER TO:  
OE BPE DSFA PSB

Date : May 24, 1977

Entity No. : 8081064821A1

OFFICIAL NOTICE OF FUNDING FOR THE SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS,  
COLLEGE WORK-STUDY AND/OR NATIONAL DIRECT STUDENT LOAN PROGRAMS

GRANT PERIOD: JULY 1, 1977 THROUGH JUNE 30, 1978

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

DOCUMENT NUMBER: POO7800001	INITIAL: \$	11,000
DOCUMENT NUMBER: POO7810000	CONTINUING: \$	7,420
	TOTAL AWARD: \$	18,420
CAN 72003058	APPROPRIATION NO: 7570293	O.C.C. 41.31

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COLLEGE WORK STUDY PROGRAM

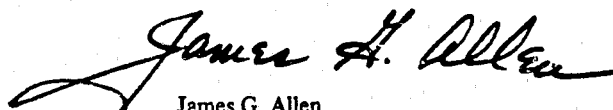
DOCUMENT NUMBER: POO7890000	AWARD: \$	60,000
CAN 72003165	APPROPRIATION NO: 757/90293	O.C.C. 41.31

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NATIONAL DIRECT STUDENT LOAN PROGRAM

LEVEL OF LENDING: \$	175,000	
DOCUMENT NUMBER: POO7881111	FEDERAL CAPITAL CONTRIBUTION: \$	125,170
CAN 72002902	APPROPRIATION NO: 7570293	O.C.C. 33.20

Payment will be made under the HEW Federal Assistance Financing system. Questions pertaining only to pay  
ments should be directed to the Federal Assistance Financing Branch, (Room 426), 5333 Westbard Avenue  
Bethesda, Maryland 20014, (301) 496-7316.

  
James G. Allen  
Chief, Program Support Branch  
Division of Student Financial Aid

**WEDNESDAY, NOVEMBER 24, 1976**



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**PART II:**

**DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE**

**Office of Education**

**NATIONAL DIRECT  
STUDENT LOAN  
PROGRAM AND  
SUPPLEMENTAL  
EDUCATION  
OPPORTUNITY GRANTS  
PROGRAM**

**Interim Regulations**

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 144—NATIONAL DIRECT STUDENT LOANS

## PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

## Interim Regulations

1. The National Direct Student Loan Program (NDSL) is a long-term, deferred repayment loan program established at institutions of postsecondary education to provide loans to needy students to meet their educational expenses.

A student may borrow up to a total of: (a) \$2,500 if he is enrolled in a vocational program or if he has completed less than two years of a program leading to a bachelor's degree; (b) \$5,000 if he is an undergraduate student who has already completed two years of study toward a bachelor's degree; (This total includes any amount he has borrowed under the NDSL Program for his first two years of study) and (c) \$10,000 for graduate study. (This total includes any amount the student borrowed under the NDSL Program for his undergraduate study.)

Repayment on these loans begins 9 months from the time a student graduates or ceases to be enrolled as at least a half-time student. Normally the student is allowed ten years to repay the loan. During the repayment period, the interest charge is 3 percent simple interest on the unpaid balance of the loan principal. Loans are repaid directly to the lending institution and are thus available for making new loans to other needy students.

No payments are required and no interest accrues for up to three years while the student borrower serves as a member of the Armed Forces of the United States, Peace Corps, or Vista. Also no payment is required and no interest accrues during periods when the student borrower is enrolled for at least a half-time course of study at an eligible postsecondary institution.

Cancellation of part or all of a loan may be granted to student borrowers who go into certain fields of teaching or specified military duty.

A prospective student borrower should contact the financial aid officer at the institution in which he is enrolled or expects to be enrolled for details concerning an application for such a loan.

A notice of proposed rule making was published in the FEDERAL REGISTER on October 14, 1975 (40 FR 48252-48264) setting forth regulations for the National Direct Student Loan Program authorized by Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1087aa-87ff), and Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-29). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92-318) hearings were held at the U.S. Office of Education in Washington, D.C. and the Regional Offices of Education in Dallas, Texas and San Francisco, California and comments were received on

the proposed regulation. In addition, interested persons were invited to submit written comments and recommendations to the U.S. Office of Education, Room 2085, Federal Office Building Six, 400 Maryland Avenue, S.W., Washington, D.C., Attention: Chairman, Office of Education Task Force on Section 503. Written comments were received and considered.

Furthermore, the Education Amendments of 1976, Pub. L. 94-482 was enacted which made changes in the operation of the Loan Program. Those changes affecting the operation of the program for the current academic year have been incorporated into these regulations.

As a result of such comments, interim regulations are being published, as set forth below, to enable further public comments, suggestions, and recommendations. These interim regulations, when they become effective in accordance with section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)), will govern the operation of the National Direct Student Loan Program until such time as final regulations are published and become effective.

Interested parties are invited to submit written comments, suggestions, or objections to the Office of Education, Bureau of Postsecondary Education, Division of Student Financial Aid, Room 4004, 7th & D St., S.W., Washington, D.C. 20202. All relevant material must be received not later than February 22, 1976. Comments received will be available for public inspection at the above office Monday through Friday between 8:00 a.m. and 4:30 p.m.

**A. Summary of Comments—Office of Education Response.** The following oral and written comments were received by the Office of Education regarding the notice of proposed rulemaking (NPRM). After a summary of each comment, a response is set forth stating the changes which have been made in the regulation, or the reasons why no change is deemed necessary. In view of the large volume of comments received, the Office of Education has summarized as many of the comments as possible under single headings.

SECTION 144.2 DEFINITIONS  
ACADEMIC YEAR

**Comment.** One commenter requested clarification of the verb "complete" as it is used in this definition, questioning whether it implied a specific requirement upon a student to earn credits or to remain enrolled in a course from which he might otherwise choose to withdraw.

**Response.** The definition of an "academic year" is an attempt to define a period of time in a manner which will provide comparability among institutions using differing units of measurement for organizing instructional periods. Taken in context, the verb "complete" clearly is used in a general sense as part of the definition of a unit of measurement: " . . . a period of time . . . in which a full-time student would normally be expected to complete the

equivalent . . ." Student eligibility requirements are included elsewhere in the regulations.

**Comment.** Two commenters questioned whether a difference in meaning was intended in the use of the verbs "pursuing" in defining a full-time student and "carrying" in defining a half-time student.

**Response.** No difference was intended. In response to the commenter's suggestion, the term "carrying" will be used uniformly in both definitions.

## GOOD STANDING

**Comment.** Several commenters recommended that the definition of the term "good standing" be amended to include criteria other than simple eligibility to continue in attendance in accordance with institutional standards and practices. These commenters noted that some public institutions are required by State law to permit any State resident to continue in attendance as long as he or she wishes, without regard to the student's academic performance.

**Response.** The commenter's recommendation has been adopted. The definition of "good standing" has been expanded to provide that for purposes of student eligibility under the National Direct Student Loan Program, institutional standards must provide that the student is making measurable progress toward the completion of his course of study. Thus a student who fails all of his courses cannot be considered in good standing for purposes of determining his eligibility for continued aid under the National Direct Student Loan Program.

## HALF-TIME STUDENT

**Comment.** One commenter suggested that for purposes of consistency the phrase "whether or not for credit" should either be deleted from the definition of a full-time student or added to the definition of a half-time student.

**Response.** The commenter's point is well taken; the phrase "whether or not for credit" has been deleted from the definition of a full-time student.

**Comment.** One commenter suggested that the minimum number of semester or quarter hours cited in § 144.2(u) (formerly § 144.2(p) in the NPRM) as necessary to constitute a half-time academic work load should be increased from six to eight.

**Response.** The suggestion was not adopted as a requirement for all institutions; however the commenter's institution may use such a higher standard if it chooses to do so. The Office of Education has tried to develop a definition which will accommodate a wide variety of programs and institutions of postsecondary education. The standard for determining half-time student status is to be established by the institution, except that for this program it may not be less than the minimum set by the Office of Education.

**Comment.** Several commenters noted that institutions frequently have different standards for full-time (and half-time) student status at the graduate

level as compared to their standards for undergraduates, often requiring an academic work load of fewer course hours than that required for undergraduates. Therefore, the commenters suggested that the definition of a "half-time student" should be expanded to include a lower minimum number of hours per term for graduate and professional half-time students.

*Response.* In accordance with the commenters' suggestions, a definition of the term "half-time graduate student" has been included in the regulations.

*Comment.* Two commenters suggested the inclusion in the regulations of a definition of "postsecondary student" to facilitate eligibility determinations.

*Response.* The suggestion was not adopted. The Office of Education considers § 144.9 which sets forth student eligibility criteria to be sufficient to resolve any eligibility questions which may arise.

*Comment.* Two commenters objected to the requirement set forth in § 144.2(x)(1) of the regulation (§ 144.2(r) of the NPRM) which defines an institution of higher education as admitting "as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate." One commenter observed that many community colleges regularly enroll students in academic programs without reference to their graduation from high school or other certification. Another commenter noted that some institutions may enroll students who have failed to complete high school and have no recognized equivalent of a diploma, but are considered by the institution to be qualified for admission. One commenter questioned whether an institution following such a practice would be ineligible to participate in the National Direct Student Loan Program and another suggested that the definition be amended to include institutions which admit primarily students with high school diplomas or the equivalent but also others whom the institutions deems qualified.

*Response.* The definition to which the commenters object is set forth in § 1201(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1141), and cannot be changed by regulation. It should be noted that § 1201(a)(1) of the Higher Education Act and § 144.2(x)(1) of the regulations require that institutions of higher education admit as regular students only persons having a high school diploma or the recognized equivalent. Therefore, any institution which admits as regular students persons who do not have a high school diploma or the recognized equivalent may not qualify as an institution of higher education and therefore may not participate in the National Direct Student Loan Program.

**PROPRIETARY INSTITUTION OF HIGHER EDUCATION**

*Comment.* One commenter suggested that the resolution of eligibility questions could be facilitated if the definition of

an eligible program of study were included.

*Response.* The commenter's suggestion has been adopted. A minimum standard for an eligible program of study has been included in the definition of a "Proprietary Institution of higher education." A similar standard has been included in the definition of "institution of higher education" with respect to a one year vocational technical school.

**SELF-SUPPORTING OR INDEPENDENT STUDENT**

*Comment.* The proposed definition included a requirement that the student "has not lived or will not live for more than two consecutive weeks in the home of a parent during the calendar year." Most of the commenters felt that two weeks was too restrictive a period for a student who became ill or for a student recently separated from a spouse. Many commenters offered alternative periods of time for visits, varying from three weeks to four months, while others suggested adding a waiver for exceptional circumstances. One commenter objected to the \$600 limitation on the amount of assistance a "self-supporting student" could receive from his or her parent(s), and suggested that it should be raised to a higher level. In addition several commenters were concerned that the definition did not make clear whether one or both parents should be deceased for a student to be declared "self-supporting."

*Response.* The definition of self-supporting or independent student is an attempt to define in objectively measurable terms the nature of a relationship which is essentially subjective rather than objective. Except with regard to veterans this definition is one which is or will be used by the other programs of student financial aid administered by the Office of Education. (Section 464(e) of the Act (20 U.S.C. 1087dd(e)) in effect requires that veterans be treated as independent students under this part.) It is recognized that the proposed definition is somewhat arbitrary, but for the sake of consistency with other programs it is not being changed. However, to accommodate the concerns which were expressed about this definition, provision was made in § 144.12 to give the student financial aid officer at an institution the discretionary authority to determine in any particular case whether the relationship between a student and his parents is of such a nature that it is unreasonable to expect the parents to contribute towards the student's cost of education, regardless of whether that student qualifies as an independent student.

The intent of the provision concerning a deceased parent is simply to state the obvious: A student cannot be considered to be dependent on a deceased person. However, the death of one parent does not automatically make it unreasonable to expect the surviving parent to contribute towards the student's cost of education. Therefore, if there is a surviving parent, the test enumerated in the first part of the definition would have to be met with respect to the relationship between the student and the surviving par-

ent before the student could be considered self-supporting or independent. Again, any hardship resulting from the definition may be rectified by the institution's financial aid officer.

*Comment.* Many commenters expressed varying viewpoints on the definition of default as provided in § 144.2(f)(2) of the notice of proposed rule making. Most commenters objected to having default of 120 to 180 days predicated upon the frequency of repayment, i.e., monthly versus bimonthly and quarterly repayment schedules. Most preferred one period of 120 days for default on schedules of any frequency. One commenter suggested a 90 day period on all loans. One commenter suggested a definition of "minor default"—120 days versus "major default"—180 days.

*Response.* The Education Amendments of 1976 in effect adopted the definition of default set forth in the notice of proposed rule making so no change was made. Furthermore section 130(c) amended section 463 of the Act to require that all institutions report to the Commissioner on at least a semi-annual basis the number of loans in default.

**SECTION 144.3 APPORTIONMENT AND REAPPORTIONMENT OF FEDERAL CAPITAL CONTRIBUTIONS TO STATES**

*Comment.* Several commenters suggested alternative methods of apportionment and reapportionment of funds among the States such that distribution should first be made within a State, then within a region and finally nation-wide. One commenter suggested that the formula set forth in § 144.3(a)(1) be amended to include students enrolled on at least a half-time basis rather than only full-time students.

*Response.* Both the apportionment and reapportionment provisions are required by the authorizing statute (§ 462 of the Act; 20 U.S.C. 1087bb) and therefore may not be changed.

*Comment.* Several commenters recommended that the method stated in former regulations and in § 144.3(a)(1) of the proposed regulations by which the Commissioner exercises his discretion to apportion 10% of the National Direct Student Loan appropriation be phased out and that the Commissioner exercise his discretion by apportioning this sum in accordance with the statutory formula under which the 90% initial allotment to the States is allocated.

*Response.* The Office of Education concurs in this suggestion and is drafting a new regulation which would put the recommendation into effect. However, since this change would have a substantial impact on the amount of funds that institutions would receive, the Office of Education plans to publish it as a notice of proposed rule making on which public comment will be invited. Meanwhile, no change is made in the regulation.

**SECTION 144.5 & 144.6 INSTITUTIONAL APPLICATIONS AND FUNDING CRITERIA**

*Comment.* Several commenters objected to the method used to calculate delinquency rates specified in § 144.5(a)(11).

## RULES AND REGULATIONS

*Response.* New definitions of "Delinquency rate" (§ 144.2(h)) and "Uncollectible" (§ 144.2(gg)) have been included. The effect of these revisions is to exclude from the calculated delinquency rate, for purposes of § 144.5(a), (11), any loan which the institution may return to the Federal Government as uncollectible.

*Comment.* Two commenters expressed the view that it is unreasonable to require, as does § 144.5(a) (12), that an explanation be given if the estimated amount of funds collected too late for relending exceeds 25 percent of the total amount received during the entire fiscal year, since their last disbursements are made in March and their collections are received in the last quarter of the fiscal year. Both commenters indicate that since this is true, their institutions have always had cash on hand from collections received too late to relend in excess of 25 percent of the total amount received during the entire fiscal year.

*Response.* Since all loans made after 1965 must be repaid on a monthly, bi-monthly, or quarterly basis, the Office of Education does not understand why institutions would receive an unusually large share of their collections in the last quarter of the year. Institutions are expected to anticipate their collections for the entire grant period and make maximum use of monies so collected. Funds collected in the last quarter may also be used to make loans to students enrolled in summer terms, which usually start before June 30.

*Comment.* One commenter requested clarification of § 144.5(a) (13) (§ 144.5(a) (12) of the NPRM) concerning the \$200 average unmet need factor.

*Response.* Based on the experience gained during the operation of this program, it has been found that a student frequently is able to stay in school despite the fact that his full need is not met, but that the likelihood of this happening is increasingly remote as the amount of unmet need reaches and goes beyond \$200. Above this level of unmet need it is to be expected that a large fraction of the group of students with unmet need would be forced to drop out of school because of lack of funds. If this does not occur, it must be assumed that the students have managed to obtain funds from some source not known to the institution.

*Comment.* One commenter questioned the use of the term "annual per student cost" in § 144.5(a) (4) and suggested that the costs to which it refers are intended to cover an academic year rather than a twelve-month period.

*Response.* The commenter is correct and the phrase has been changed in the final regulation to cover an academic year.

*Comment.* A number of commenters objected to the requirement of a justification of any per student costs for books and supplies in excess of \$175 and for personal expenses in excess of \$450. Their objection was that these figures were unrealistically low, inflexible bench-

marks. Some suggested raising these amounts while others felt no specific dollar amounts should be stated. Another commenter suggested, as a substitute, a regulation setting guidelines an institution could follow in determining student costs for various budget items.

*Response.* The proposed regulation was not changed. These amounts are used as an average for all institutions across the nation, and the Office of Education does not consider them unrealistically low. It is recognized that some institutions may vary from the norm and that higher amounts may be justified in some cases. Furthermore, this requirement does not set fixed standard amounts which may not be exceeded, but merely requires that higher amounts be justified.

*Comment.* One commenter suggested that § 144.5(a) (4) of the regulation should include benchmark amounts for room and board not provided by the institution and for transportation costs, as well as for personal expenses.

*Response.* The Office of Education is currently planning to conduct a study which will have as its main purpose the establishment of parameters for these educational costs for use in the application review process. At present no fixed amounts have been established to be used as benchmark figures for these educational costs.

*Comment.* A number of commenters suggested that § 144.5 include specific reference to the terms and conditions for submitting the abbreviated application, referred to as the "short form," which institutions have been allowed to submit under certain conditions in requesting funds for FY 1976 and FY 1977.

*Response.* The suggestion of the commenters has been accepted and a new paragraph specifying terms and conditions for submitting a "short form" has been included in the final regulation as § 144.5(c).

*Comment.* One commenter suggested that the deadline for submitting the application be included in the regulation.

*Response.* The deadline for submitting the annual tripartite application is published each year in the FEDERAL REGISTER. Since various unforeseen factors may arise which could necessitate a change in the time of this deadline date from one year to another the Office of Education feels that annual publication of the date in the FEDERAL REGISTER is preferable to including it in the program regulations.

*Comment.* Some commenters felt the wording of § 144.5(b) as related to the remainder of that subsection could be construed to mean that all correspondence on financial aid matters would be addressed to the president of the institution.

*Response.* The wording of this subsection has been revised in the final regulation to respond to the commenters' concerns.

*Comment.* One commenter requested a definition of the term "reasonableness" as it is used in this section.

*Response.* No special definition was considered necessary. The term "reasonableness" as applied to the funding criteria in § 144.6 should not be construed as having any special meaning outside the normal usage of the term as defined in any modern dictionary. The Office of Education considers it an appropriate term to be used as an evaluation criterion by a panel of experts.

## SECTION 144.7 APPLICATION REVIEW AND APPROVAL OF REQUEST

*Comment.* Several commenters suggested that the term "qualified persons" as used in this section of the proposed regulations should be restated to specify experienced individuals who work directly with financial aid programs and also that the regulations should require the inclusion of practicing financial aid officers.

*Response.* The suggestion was not adopted. The Commissioner feels that the wording of this term in the proposed regulations expresses much of the commenter's intent. The regulation stipulates that the Commissioner shall convene panels of "qualified persons" to evaluate institutional applications; obviously, a person cannot be considered "qualified" unless he is conversant with the administration of student financial aid programs.

*Comment.* One commenter suggested that the final regulation should require the inclusion of practicing financial aid officers in the regional review process outlined in § 144.7(c) of the proposed regulation.

*Response.* The regional review procedure outlined in § 144.7(c) does not preclude the use of a panel of practicing financial aid officers if the regional office chooses to employ such a panel. In some instances, however, the issues involved in the review of the original panel's recommendation may be handled more expeditiously by direct negotiation between the regional office and the institution. Therefore, the option to use or not use a panel of practicing financial aid officers at this stage of the review process has been left to each regional office as it deems appropriate. In this context it should be noted that the regulation does provide that an institution may request a national review of the region's recommendation.

*Comment.* One commenter felt the proposed regulation prevented the introduction of additional material at any point in the appeal process.

*Response.* The commenter is incorrect in his assumption. Additional information may be presented to the regional office when a review of the original panel recommendation is requested (45 CFR 144.7(c)). However, no new information may be presented to the national review panel, because the regional office should have been given the opportunity to act on any additional information prior to its presentation to a national review panel.

*Comment.* One commenter suggested that the regulation should require that



the panel review guidelines be supplied to institutions as a guide to assist them in completing the application.

*Response.* The suggestion was not adopted. The panel review guidelines contain no requirements which are not included in the regulation and are an internal working document intended to assist panel members in the review process.

*Comment.* One commenter suggested that the time period for submission of a request for national review should be specifically stated in the regulation rather than using the phrase "within such time as may be specified by the Commissioner."

*Response.* As noted in the earlier comment on the deadline for submitting the application, various unforeseen factors may arise which could necessitate changes in deadline dates or in the time period between the original submission of the application and the convening of the national review panel. Consequently, it is considered inappropriate to include a specific time period in these regulations.

**SECTION 144.8 INSTITUTIONAL AGREEMENT**

*Comment.* Two commenters objected to the language in § 144.8(c)(5) and asked for removal of the phrase, "but does not include costs of employing individual contractors or agents to handle collection duties that reasonably may be expected to be performed by the lending institution's own personnel." Both commenters felt that this language could prevent their use of a billing and/or collection agency.

*Response.* In response to the concern expressed by the commenters additional language has been added to § 144.8(c)(5) to clarify the intent of the Office of Education, which was to differentiate between routine administrative expenses and other collection costs, not to prohibit the use of a billing and/or collection agency. The Office of Education considers the cost of using a billing service to be a routine administrative expense which may not be charged to the Fund as an other collection cost. A further discussion of other collection costs may be found under the discussion of comments on section 144.46.

*Comment.* Several commenters recommended that actual procedures be included in § 144.8(d) for the return of defaulted loans to the Federal Government and objected to the fact that such procedures had not already been provided since P.L. 92-318 was effective as of July 1, 1972. Two commenters objected to the provision and felt that institutions should not be allowed to return defaulted notes to the Federal Government. One commenter questioned whether § 144.8(d) is applicable to loans made before and after June 30, 1972. Several commenters were under the impression that "due diligence" as specified in Subpart C would have to be performed on loans on which "due diligence" had previously been performed as set forth in Appendix 17 of the 1967 Manual.

*Response.* The provision for return of defaulted loans is provided for in the statute (§ 463(a)(4) of the Act; 20 U.S.C. 1087cc(a)(4)) and is applicable to loans granted both before and after June 30, 1972. In answer to the two commenters who objected to this provision the language of the regulation states that "the institution may assign its rights." Thus no institution is required to return defaulted loans to the Federal Government. In regard to the return of defaulted loans in accordance with § 144.8(d), if an institution has used any reasonable standard of "due diligence" with respect to loans in default for 2 years or more prior to the effective date of these regulations, the institution may return such loans to the Federal Government. In order to be considered reasonable any such standard must as a minimum have required extensive collection efforts by the institution or by a commercial collection agency and/or resort to litigation where appropriate.

*Comment.* One commenter asked if the provision for return of defaulted loans to the Federal Government specified in § 144.8(d) is the only procedure for write-off of loans and also asks what office would be accepting such defaulted loans. One commenter asks whether the assignment of the note to the Federal Government as specified in § 144.8(d) removes the note from being considered delinquent and whether or not the assignment of the note will reduce the base amount against which delinquency is calculated as required in § 144.5(a)(11) of the regulations.

*Response.* Essentially the provision for turning over defaulted paper is not considered a write-off but rather that the loan is considered "uncollectible". A new definition of uncollectible has been added as § 144.2(gg). Where defaulted loans are returned to the Federal Government the base amount against which delinquency is calculated is taken into account, as set forth in the definition of delinquency rate in § 144.2(h).

**SECTION 144.9 STUDENT ELIGIBILITY**

*Comment.* Several commenters interpreted the language in § 144.9(a)(4) of the regulations, which provides that the Commissioner be notified when a student is no longer in "good standing," as requiring them to delay action until the Commissioner's approval is received.

*Response.* Section 130(d) of the Education Amendments of 1976 deleted the phrase "upon notice to the Commissioner." Thus institutions are not required to notify the Commissioner when a student is no longer in "good standing." The regulation was revised accordingly.

*Comment.* Several commenters objected in various ways to § 144.9(e) (§ 144.9(d) of the NPRM) concerning the use of the term, "the ranking of eligible students \* \* \*". The most prevalent comment was that "ranking" implies that all applications for a given enrollment period must be in the hands of the institution before any application could be processed.

*Response.* It was not the intent of the Office of Education that the language of § 144.9(e) should be interpreted as the several commenters suggest. In view of the apparent misinterpretation of § 144.9(e) the word "selection" has been substituted for the word "ranking". The intent of the regulation is to see that the selection of students for loans is made from among students of approximately equal need.

*Comment.* Several commenters spoke to the apparent contradiction in requiring institutions to make loans to "high risk borrowers" and the stringent collection procedures imposed by Subpart C and the penalty for high delinquency rates specified in § 144.5(a)(11). In general commenters felt that the regulation preempted the general ability of the aid officer to administer the fund due to the lack of flexibility in judgment.

*Response.* The Office of Education sees no contradiction in making loans to high risk (needy) students and the collection efforts set forth in Subpart C. The intent of the program is to assist students who otherwise might not be able to secure an education and thus improve their economic status and general well being, as well as their financial ability to repay a loan. However, the language of the regulation has been revised to prohibit the making of loans to students who indicate an unwillingness to repay such loans. Delinquency on a prior loan or an established history of nonpayment of debts may be taken as evidence of such an unwillingness.

*Comment.* One commenter suggested that the regulation be revised to allow institutions to deny loans to students who have had their prior loans discharged in bankruptcy.

*Response.* The Bankruptcy Act is a Federal law which is intended to assist persons in dire financial straits to get a fresh start in life. A student may not therefore be denied a loan solely on the basis of having had a prior loan discharged in bankruptcy. Moreover, since a debtor is prevented from declaring bankruptcy for a period of 6 years from the date of his debts' being discharged in bankruptcy, he may turn out to be a better credit risk than other students.

*Comment.* Several commenters objected to the requirement that the student affidavit noted in § 144.9(e) of the proposed regulation be signed in the presence of a notary or other person legally authorized to administer oaths or affirmations. One commenter suggested the regulations should specify that the content of the affidavit form could be integrated into other institutional forms and that other items could be included in the affidavit at the discretion of the institution.

*Response.* The regulation was not changed. Section 498 of the Higher Education Act of 1965, as amended (20 U.S.C. 1088g), requires an "affidavit," which is a written statement made on oath (or affirmation) before a notary public or other person authorized under State law to witness a signature. Pro-

vided that the affidavit remains clearly identifiable as a sworn statement, it may be integrated into the institution's forms in a manner of the institution's own choosing.

#### SECTION 144.10 COORDINATION WITH BUREAU OF INDIAN AFFAIRS GRANTS-IN-AID

A notice of proposed rule making pertaining to the coordination of Office of Education sponsored student financial aid programs with Bureau of Indian Affairs grants-in-aid was originally published in the FEDERAL REGISTER of March 7, 1975, (40 FR 10686) as a proposed amendment to the regulations for the Supplemental Educational Opportunity Grant Program. This provision was republished as § 144.10 of the notice of proposed rule making for the National Direct Student Loan Program. The final regulation for the Supplemental Educational Opportunity Grant Program was published in the FEDERAL REGISTER of August 27, 1976 (41 FR 36320). The final regulation for the National Direct Student Loan Program has been changed in accordance with the comments received for the Supplemental Educational Opportunity Grant Program. Furthermore, the comments received with regard to § 144.10 are basically the same comments received on the Supplemental Educational Opportunity Grant Program provision, and such comments were discussed in the preamble to the Supplemental Educational Opportunity Grant Program regulation.

#### SECTION 144.11 COST OF EDUCATION

*Comment.* A number of commenters objected to the lack of comparability with regard to transportation costs related to a program of study abroad as a cost of education in the proposed National Direct Student Loan Program and College Work-Study Program regulations and the Supplemental Educational Opportunity Grant final regulations.

*Response.* In response to the commenter's concern and in order to make all three regulations comparable, this section has been revised to provide that in the case of a student enrolled in an eligible program of study outside the United States his cost of education may not exceed his cost of education at the location of the campus of the institution he normally attends.

#### SECTION 144.12 EXPECTED FAMILY CONTRIBUTION

*Comment.* A number of commenters requested clarification of § 144.12(c) and suggested that the subsection be rephrased in more specific terms.

*Response.* The suggestion of the commenters was not adopted. In the past financial aid officers have frequently complained that the standards prescribed by the Office of Education for determining self-supporting student status did not permit them to exercise professional judgment in cases which seemed to them to warrant special consideration. In response to this frequently voiced complaint § 144.12(c) was written in general

terms specifically with the intention of providing the latitude for the financial aid officer to exercise his professional judgment on a case-by-case basis.

*Comment.* One commenter suggested that the phrase "dependent children attending institutions of higher education" in § 144.12(a) (3) should be restated as "dependent children attending institutions of postsecondary education."

*Response.* The recommendation was not adopted. "Institution of higher education" is a statutory term with a specific meaning. "Institution of postsecondary education" is not included in the statute.

*Comment.* One commenter pointed out that § 176.12 of the Supplemental Educational Opportunity Grant regulations specifically includes the requirement that the financial aid officer shall take into consideration tuition incurred by dependent children attending elementary and secondary schools in determining the expected family contribution. The commenter objected to the omission of this term in the National Direct Student Loan regulation as creating a double standard in determining eligibility for assistance under the two programs.

*Response.* The requirement in the Supplemental Grant regulation to which the commenter refers is set forth in the authorizing statute governing that program (§ 413C(a)(2) of the Higher Education Act of 1965, as amended) and therefore must be reflected in the regulations for that program. Since this category of family costs is not specifically addressed in the authorizing statute for the National Direct Student Loan Program, it is not specifically cited in the program regulations. However, such family costs may be considered by the financial aid officer in calculating a family contribution to determine National Direct Student Loan eligibility pursuant to § 144.12(a)(4), which requires that the financial aid officer shall take into account such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

#### SECTION 144.13 APPROVED NEED ANALYSIS SYSTEMS

*Comment.* A number of commenters recommended that the Uniform Methodology for Measuring Ability to Pay, developed by the National Task Force on Student Aid Problems, be adopted by the Office of Education as the only acceptable method of need analysis for the National Direct Student Loan Program.

*Response.* The suggestion was not adopted. The annual review procedures outlined in § 144.13 of the final regulations will accommodate those systems which use the Uniform Methodology. However, the Office of Education does not wish to mandate the use of the Uniform Methodology to the exclusion of all other systems.

*Comment.* Some commenters objected to the inclusion of the Basic Grants and the Income Tax methods of calculating

expected family contributions as approved need analysis systems.

*Response.* The proposed regulation was not changed. The Income Tax method of calculating expected family contributions and the method used by the Basic Grants Program are only two of several such methods or systems of need analysis approved for this purpose. No institution which objects to either method is required to use it.

*Comment.* One commenter questioned the omission in § 144.13(b) of the College Scholarship Service and the American College Testing Program as specifically designated approved need analysis systems.

*Response.* The Commissioner has the statutory responsibility to provide basic criteria and schedules for the guidance of institutions in making awards to needy students. Prior to 1975, the regulations governing this program had approved certain, specifically named need analysis systems, without specifying any duration for approval, and had provided for the approval of other systems which produced comparable figures for expected parental contributions. The Commissioner has concluded, however, that he should review on an annual basis such need analysis systems as are used for dependent students and should publish each year a list of those systems which he has approved for use by institutions during the subsequent academic year. The proposed rule set forth the procedures and standards for such review and approval. The two systems cited by the commenter will be required to follow the annual review procedure applicable for all need analysis systems except Basic Grants and Income Tax.

*Comment.* One commenter suggested that the Office of Education should develop benchmarks for approving need analysis systems for independent students in a format similar to that for systems to be used with respect to dependent students. The commenter apparently assumed that any need analysis system developed for use with respect to independent students must follow the methodology of the College Scholarship Service.

*Response.* The suggestion was not adopted. At present the Commissioner does not plan to provide a set of criteria and schedules for the guidance of institutions in making awards to needy independent students. The elements which such a system must take into account are included in § 144.12(b) of the final regulations. To be approved by the Commissioner, a proposed need analysis system for independent students must provide results which are comparable to those of currently approved systems. Although the College Scholarship Service System is among those which have received this approval, it is a misinterpretation of the regulation to assume that approval of all future systems is contingent upon their use of CSS methodology.

*Comment.* One commenter suggested that a family residence of \$25,000 or

\$30,000 should not be included as an asset in computing the expected parental contribution of dependent students, and only the value of the residence in excess of that amount should be taxed as an asset.

*Response.* The suggestion was not adopted. The regulation governing the methodology for determining an expected parental contribution stipulates that the net market or cash value of the parent's assets remaining after deduction of related debt and a standard asset reserve of \$10,000 should be considered. Thus in the case of the parent's home, the value minus the mortgage, rather than the total value of the home, would be considered in the computation of the expected parental contribution.

*Comment.* One commenter suggested that the Commissioner encourage independent research by outside agencies in the area of measuring the ability of families to contribute toward the cost of postsecondary education and incorporate the results of such research into Federal need analysis system guidelines.

*Response.* The Commissioner does encourage such independent research and would welcome with great interest the results of any such research which may be brought to his attention.

**SECTION 144.14 COORDINATION OF STUDENT FINANCIAL AID PROGRAMS, LOAN AMOUNT, AND OVERAWARD**

*Comment.* One commenter suggested that the responsibility for determining a student's eligibility for Federal interest benefits on a Guaranteed Student Loan should rest with the financial aid officer rather than the lending agency from which the loan is received.

*Response.* The commenter's suggestion relates to statutory and regulatory provisions governing the Guaranteed Student Loan Program. Therefore, the change suggested by the commenter would have to be addressed in regulations for that program.

*Comment.* One commenter suggested that the requirement set forth in § 144.14 (a) of the proposed regulation concerning the appointment of an official to be responsible for coordinating the National Direct Student Loan Program with the institution's other student financial aid programs should be put into the form of an agreement to be accepted annually by the chief fiscal officer of the institution and circulated to department chairmen and other institutional officials. The commenter felt that such an agreement would be of value to the coordinator when reductions in financial aid packages were necessary as a result of overawards caused by departmental jobs, scholarships or loans.

*Response.* The suggestion was not adopted. Section 144.14(a) of the regulations requires that each institution shall appoint an official to be responsible for coordinating the National Direct Student Loan Program with the institution's other student financial aid programs. The Commissioner feels that an institution should have discretion to carry out this

requirement as the commenter suggests or in some other appropriate manner.

*Comment.* One commenter noted that a student could receive financial assistance in an amount greater than his financial need if the institution did not take into account, when awarding his financial aid, the amount of a Basic Grant which that student would be entitled to receive.

*Response.* The commenter's point is well taken; therefore, § 144.14(c) has been amended to include as a "resource" the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program regardless of whether the student has applied for such funds. The consequence of this inclusion is that an institution shall, when calculating a student's financial need, subtract from the student's cost of education the amount of a Basic Grant to which that student is entitled as well as the student's expected-family contribution.

Section 128(c)(3) of the Education Amendments of 1976 amended the College Work-Study Program to permit a student to continue on a subsidized work-study job even if his documented need was exceeded if such excess was a result of earnings from additional employment, as long as that excess did not exceed \$200. In order to coordinate this change in the Work-Study Program with the other college based student financial aid programs, section 144.14 of the National Direct Student Loan Program and section 176.14 of the Supplemental Educational Opportunity Grant Program were amended by adding a new paragraph (f).

**SECTION 144.15 DISBURSEMENT OF LOANS**

*Comment.* Several commenters requested clarification of the language in § 144.15(a) concerning disbursement of funds. One commenter favored a single disbursement of funds during an academic year. Most, however, preferred disbursement related to enrollment periods similar to that set forth in § 176.17 (a) of the Supplemental Educational Opportunity Grants regulations.

*Response.* The Office of Education agrees that more than one disbursement during an academic year is needed. Accordingly, this section of the regulations has been revised to require that where a loan is made for an entire academic year, the loan must be disbursed in equal installments and there must be at least one installment per semester, trimester, or quarter if the institution uses such academic terms. If an institution does not use such academic terms, there are to be two equal installments per year payable at the beginning and midpoint of the academic year. If a loan is made for a period shorter than an academic year the institution may disburse the loan to the student as funds are needed by the student.

*Comment.* Many commenters expressed the opinion that the Truth in Lending requirements were never intended to apply to student loans and therefore should not be included in § 144.15(e) of the Na-

tional Direct Student Loan regulations (§ 144.15(e) of the NPRM). Also several commenters expressed the view that the administration of the Truth in Lending Act is the responsibility of another Federal agency and not that of the Office of Education.

*Response.* The Office of Education has been informed by the Federal Reserve Board that these loans are subject to the Truth in Lending requirement. The final determination as to a penalty for the violation of this requirement by an institution rests with the Federal Reserve Board. If a loan is determined invalid because of the institution's noncompliance with the Truth in Lending Act, the institution will be deemed not to have made a loan under this part.

**SECTION 144.16 SPECIAL SESSIONS**

*Comment.* One commenter felt that the definition of the term "half-time student" should be expanded to reflect the difference in the number of hours necessary to be considered enrolled half-time during a regular period of enrollment and during a special session.

*Response.* No change was made in response to this comment. The Commissioner feels that the use of the term "equivalent" in the definition of half-time undergraduate student will cover the situation mentioned in the comment. For example, a three credit-hour course completed in half the normal length of time in a summer session may be considered the equivalent of a six credit-hour course in a regular session.

*Comment.* Another commenter suggested that § 144.16 should include the requirement of acceptance for enrollment rather than merely the student's intention to enroll at the next regular session of the institution, since at many institutions acceptance for enrollment during a summer session does not necessarily constitute acceptance for enrollment at the next regular session.

*Response.* The Commissioner agrees with the commenter and the regulation has been changed accordingly.

**SECTION 144.17 ADMINISTRATIVE EXPENSE**

*Comment.* Several commenters objected to the three percent administrative expense allowance, as inadequate and recommended that it be increased to five percent. One of the commenters suggested that the funds should be specifically earmarked solely for the administrative use of the institution's financial aid office.

*Response.* These suggestions were not adopted. Section 493 of the Higher Education Act sets the percentage of the administrative expense allowance at 3 percent of amounts lent from the fund in a fiscal year and provides that the funds are a payment in lieu of reimbursement for an institution's administrative expenses in operating the National Direct Student Loan Program. Since the amount is a payment for expenses presumed to have already been met by the institution, there is not requirement that the funds be spent for the same purpose

for which the original expenses were incurred.

#### SECTION 144.18 FISCAL PROCEDURES AND RECORDS

**Comment.** A number of commenters objected to the five-year period of retention of records set forth in § 144.18(c) (2) as excessive. Some commenters questioned whether it would be permissible to dispose of records in a shorter period of time if they had been reviewed in a Federal audit and all audit questions were considered resolved by the Office of Education.

**Response.** The proposed regulation was not revised. The period of record retention is identical to the records retention requirements in Section 434(a) of the General Education Provisions Act (20 U.S.C. 1232c(a)). Records may not be disposed of before five years even if they have been audited and all audit questions are considered resolved by the Office of Education.

**Comment.** A number of commenters suggested that the requirement for an audit no less frequently than once every two years set forth in § 144.18(e) should be accompanied by a prescribed audit format and a procedure for reimbursing the institution for the cost of the audit.

**Response.** In response to the commenter's concern, § 144.18 has been revised to require that the institution use the audit guide prescribed by the DHEW Audit Agency in official audits of the institution's National Direct Student Loan Program. Copies of this guide may be obtained from the DHEW regional office serving the institution. While the Office of Education recognizes the validity of institutional complaints concerning the cost of a program audit, the authorizing statute does not permit the recovery of such costs in excess of the three percent payment in lieu of reimbursement for administrative expenses cited in § 144.17 of the regulation.

#### SECTION 144.19 FEDERAL INTEREST IN ALLOCATED FUNDS—TRANSFER OF LOAN FUND

**Comment.** Several commenters have raised a question as to whether the language in this section would prevent the short-term investment of Fund capital during periods such as the summer when not needed for loans to students.

**Response.** The language in § 144.19 is in no way intended to preclude short-term investment of Fund capital during periods in which not needed for loans. The Office of Education encourages such investments. However, all income earned due to such investments must be deposited into and become part of the Fund. Institutions wishing to make such investments must make sure that funds so invested are secure ones such as: (1) high-grade commercial paper, (2) Federal certificates of deposit and (3) interest-bearing checking accounts.

This section has also been expanded to clarify the required procedures to be

followed where an institution ceases operation, or is no longer willing or capable of maintaining its Fund or collecting loans.

#### SECTION 144.31 (FORMERLY SECTION 144.21 OF THE NPRM) LIMITATIONS GOVERNING AGGREGATE AMOUNT OF LOANS

**Comment.** Several commenters raised questions with regard to the eligibility for a loan of a borrower who has received his first baccalaureate degree and later wishes to pursue a second baccalaureate degree or a vocational course of study. Clarification was also sought with regard to the \$2,500 maximum which might be loaned to a student who has not completed a program of study leading to a first baccalaureate degree. A few commenters suggested a change in language of the regulation in order to accommodate special circumstances. One commenter suggested that the definition of graduate student be redefined to include or exclude persons with a first baccalaureate degree.

**Response.** The language of § 144.31 is taken from the statute, section 464(a) (2) of the Act (20 U.S.C. 1087dd(a) (2)). In answer to the first question expressed in the comment, a borrower who has received his first baccalaureate degree but who has not received more than \$5,000 in National Direct Student Loans would be eligible to receive additional loans up to a total of \$5,000 (including all earlier National Direct Student Loans received) for pursuing a second baccalaureate degree. Thus, a borrower who has received his first baccalaureate degree and has borrowed only \$2,500 would be eligible for an additional \$2,500 for purposes of pursuing a second baccalaureate degree. When a borrower has received the maximum of \$5,000 in loans, he is not eligible to receive further loans unless he is enrolled as a "half-time graduate student" as defined in § 144.2 (b) of this part.

In the case of a borrower who has received a first baccalaureate degree and later wishes to pursue a terminal occupational curriculum of less than two years duration, he may receive \$2,500 for such purpose only if he has not received that amount while obtaining his first baccalaureate degree. Furthermore, if a borrower is enrolled in a course of study leading to a baccalaureate degree and has received \$2,500 in the first year of study, the borrower would not be eligible for a further loan until he has completed the second year of study toward his baccalaureate degree.

The definition of graduate student was not changed, because the Commissioner feels that, for purposes of this program, the pertinent criterion is the curriculum being pursued by the student, not his prior attainment of a degree.

#### SECTION 144.32 (FORMERLY SECTION 144.22 OF THE NPRM) PROMISSORY NOTE-LOAN REPAYMENT

**Comment.** One commenter suggested that a time limit of 30 days be included

in § 144.32(a) which specifies that a copy of the executed promissory note be supplied to the borrower.

**Response.** The suggestion was not adopted. Apparently the commenter is under the impression that a borrower must be given a copy of the promissory note each time a loan is made or each time an advance is made on the approved loan. If the standard "open-end" note form (see Appendix B) is used, that promissory note can be used as long as the borrower continues to receive loans from the Fund of the institution. This note contains a "schedule of advances" which the borrower signs each time an advance is made. The institution must supply the borrower with a copy of an open-end note only once, when the borrower leaves the institution or is no longer in attendance as a half-time student.

A "closed-end" note on the other hand is a note form which provides for the specific amount of the approved loan for the academic year to be entered on the face of the note so that a new promissory note must be executed each time a new loan is made to the borrower. Such loans are generally made on an annual basis. This note also requires the inclusion of a "schedule of advances" since advances on an approved loan must be signed for by the borrower. If the "closed-end note" is used, a copy of the note must be provided to the borrower annually.

**Comment.** One commenter objected to the provision that a borrower may request a graduated repayment schedule and suggested that this would create problems in automated billings.

**Response.** No change was made. The language is required by § 464(c) (1) (A) of the Act (20 U.S.C. 1087dd(c) (1) (A)). Also, section 130(e) of the Education Amendments of 1976 amended § 464(c) (1) (A) of the Act to provide that a borrower's repayment period may begin earlier than the normal nine month grace period upon request of the borrower.

**Comment.** Several commenters expressed opposition to the provision in § 144.32(c) requiring that a copy of a repayment plan be attached to the promissory note and that a copy of it be supplied to the borrower. Some commenters felt that this would require the institution to write a repayment plan each time a loan and/or an advance was made.

**Response.** The suggestion was not adopted. It was not the intent of the regulation to require an institution to write a new repayment schedule each time the borrower receives a loan and/or each time an advance is made. The Office of Education feels that it is necessary for a copy of the promissory note with a copy of the repayment schedule attached to be provided to the borrower when he graduates or ceases at least half-time study at an institution. In the event a borrower leaves the institution without notification, the institution must

make every possible effort to see that the borrower receives a copy of the promissory note and the repayment schedule by mail.

*Comment.* Several commenters objected to the provision of § 144.32(e) that the \$15 minimum monthly repayments on Defense Loans and the \$30 minimum monthly repayments on Direct Loans must include both principal and interest. The commenters cited the Office of Education memorandum of July 17, 1972 which accompanied the new sample promissory note in which the language dealing with the optional \$30 minimum repayment provision states, "the maker shall repay the total principal amount of this loan at the rate of not less than \$30 per month."

*Response.* No change was made in response to these comments. The position previously taken by the Office of Education on this matter has been determined to have been in error.

*Comment.* Several commenters stated that the language of § 144.22(e) of the notice of proposed rule-making was difficult to understand and did not cover every possible situation where a borrower had both Defense and Direct Loans subject to the minimum repayment rate or where a borrower had loans at two or more institutions.

*Response.* In response to the concerns expressed by the commenters the discussion of this topic has been revised and expanded. These provisions now appear in §§ 144.32(e) and 144.33. The Commissioner recognizes that this particular area is complicated and difficult to understand. Therefore when these interim regulations are republished the Office of Education will include numerous examples covering the many variables possible under this provision.

The underlying concept of these provisions is the fact that the minimum repayment rates are not cumulative. For example, if a borrower received a Defense Loan from two institutions and each of them exercised the minimum payment option the maximum monthly payment under such loans is \$15 and not \$30. Similarly if a borrower received both Defense and Direct Loans and the institution exercised both minimum payment options the maximum monthly amount a borrower would be required to repay is \$30, not \$45.

Section 144.33 was designed to explain and clarify situations where a borrower has both Defense and Direct Loans which are subject to the minimum repayment provision. The maximum loan amount where the minimum rate would apply when a borrower has a combination of Defense and Direct Loans, or if the borrower has only Direct Loans is approximately \$3,100. Therefore, if the borrower's loans exceed this amount, the minimum rate of repayment could not be invoked and the borrower would be entitled to a full ten-year repayment plan on all loans pursuant to § 144.32(c). For example, if the monthly amount the borrower would otherwise be required to repay pursuant to § 144.32(c)

on his Defense and Direct Loans was at least \$30 (Defense Loan \$10—Direct Loan \$20) the minimum repayment provision may not be invoked (§ 144.33(b)). Similarly, if the monthly amount the borrower would be required to repay pursuant to § 144.32(c) on his Defense and Direct Loans is less than \$30 (Defense Loan \$10—Direct Loan \$15) the maximum monthly amount that may be charged if both options were exercised would be \$30 (§ 144.33(c)). If a borrower has a Defense Loan subject to the \$15 minimum rate and a Direct Loan subject to the \$30 minimum rate and the maximum that the institution could charge on the Defense Loan would be \$15 (§ 144.33(d)).

*Comment.* Several commenters objected to the provision in § 144.34(b) (formerly § 144.22(f)(2) of the NPRM) which requires the institution to request approval from the Commissioner to extend a repayment schedule beyond 10 years due to "extraordinary circumstances."

*Response.* No change was made in response to this comment, because the wording of this provision is required by statute (20 U.S.C. 1087dd). It should, however, be pointed out that a request for approval by the Commissioner is only required in those cases where such a revision would extend the borrower's repayment period beyond 10 years. This provision does not require the forwarding of a copy of the revised schedule, but rather a written reason for the granting of such a request. If the institution revises a repayment schedule without extending the normal ten-year repayment period, no approval by the Commissioner is required. Based on program experience to date it is anticipated that there will be no undue delays in approving the small number of requests for such extensions which is expected. Additionally, section 130(f) of the Education Amendments of 1976 amended section 464(c)(1)(C) of the Act to provide that where an institution has opted to invoke the \$30 minimum monthly repayment provision, the institution may permit a borrower to pay less than \$30 per month on all such loans where necessary to avoid hardship to the borrower for a period of not more than one year provided that the ten-year maximum repayment period is not extended. The purpose of this provision is to prohibit an institution from giving a hardship deferment or from revising a borrower's repayment schedule for more than one year at a time without reassessing the ability of the student to repay the note at the scheduled rate. However, as long as the ten-year repayment period is not breached this provision does not limit the aggregate number of periods that deferments or schedule revisions may be granted. Thus, if an institution modifies its minimum repayment schedule or defers repayments, it must, when the period is over and the student requests a further postponement or revision, reevaluate the student's financial situation to determine whether another deferment or revision is warranted. If

additional deferment or revision is justified, such a deferment or revision period cannot exceed one year.

*Comment.* One commenter asked why the provision for deferment of repayment for part-time study specified in § 144.34(c) (formerly § 144.22(f)(3) of the NPRM) for Defense Loans would not apply to Direct Loans.

*Response.* Section 205(b)(2)(D) of the National Defense Education Act of 1958 (20 U.S.C. 425(b)(2)(D)) provided, at the option of the institution, for a deferment of repayment for a period of not to exceed 3 years during which time the borrower was enrolled in an institution of higher education as less than a half-time student. Title IV-E of the Higher Education Act (which was authorized by the Education Amendments of 1972, Pub. L. 92-318) contains no similar language; thus this provision is not applicable to loans made after June 30, 1972. It should be noted that interest continues to accrue during such a period of deferment, and the borrower should be alerted to this fact.

*Comment.* Several commenters pointed out the view that the language concerning penalty charges in § 144.22(g)(2) of the NPRM was in conflict with § 464(c)(4)(B) of the Act.

*Response.* The Office of Education concurs with the commenters and the regulation has been changed accordingly (see § 144.32(f)(2) of the regulation). The Act stipulates that on loans subject to a bimonthly repayment plan, the penalty charge assessed may be \$3 for the first bimonthly repayment interval or part thereof by which an installment or evidence of entitlement to deferment or cancellation is late and \$3 for each such bimonthly interval thereafter. On loans subject to a quarterly repayment plan, the Act stipulates that the penalty charge assessed may be \$6 for the first quarterly repayment interval or part thereof by which the installment or evidence is late and \$6 for each such quarterly interval thereafter. Since the Act specifies that penalty charges are based on "installments" past due, they are cumulative in nature. An illustrative example is set forth in Appendix C of this part.

*Comment.* Several commenters asked for clarification of § 144.32(h) of the regulation (formerly § 144.22(i) of the NPRM) which provides for assignment of notes. One commenter suggested the language be revised to provide that assignment of a note could be made only upon approval by the transferee institution.

*Response.* An "assignment" would allow the borrower's loans to end up with the last institution from which he borrowed and he would thus be obligated to one institution with a single repayment schedule. This provision is not new and was contained in the original Act, but has been seldom used because any institution is reluctant to sacrifice the asset to its own Fund which each loan represents. Approval of both the assignee and the



assignor institution is required before an assignment of notes can be made.

**SECTION 144.35 POSTPONEMENT OF LOAN REPAYMENTS IN ANTICIPATION OF CANCELLATION**

This new section was added to set forth a long-standing policy of the Office which was inadvertently omitted from the NPRM. It makes provision for excusing a borrower from making repayments which might subsequently have to be refunded as a result of the borrower's earning an entitlement to partial cancellation of his loan.

**SECTION 144.36 TREATMENT OF LOAN REPAYMENTS WHERE CANCELLATION, LOAN REPAYMENTS, AND MINIMUM MONTHLY REPAYMENTS APPLY**

This new section was added to clarify the procedures to be followed in handling repayments and minimum repayment provisions if a borrower has received both Defense and Direct Loans and is entitled to cancellation on one of those loans, but not the other.

**SECTION 144.41 (formerly § 144.31 of the NPRM) LOAN COLLECTION PROCEDURES**

*General comment on Subpart C.* In view of the many questions received and in order to set forth in more detail the steps required in the exercise of "due diligence" in the collection of loans, § 144.31 of the NPRM has been split into several sections as follows:

- § 144.41 General
- § 144.42 Contact with the borrower prior to repayment period
- § 144.43 Billing procedures
- § 144.44 Skip-tracing activities
- § 144.45 Collection procedures

*Comment.* Several commenters objected to the language of § 144.41(a) of the regulation (§ 144.31(a) of the NPRM) which provides for full disclosure of a borrower's rights and obligations no later than the time he signs his promissory note. Clarification of the language was requested, because the commenters felt that this requirement duplicates the Truth in Lending requirement.

*Response.* No change was made in the regulation. The Office of Education does not agree that the requirements of the Truth in Lending Act are identical to our "full-disclosure" requirement. The Truth in Lending Act does not require that the borrower be informed of the various rights which he has under this part, such as partial cancellation for certain forms of public service and deferment. The Office of Education feels that at the minimum the institution must be required to inform the borrower that he is receiving a loan which must be repaid, require that he read the note before signing it, and provide him with a copy of the note, which sets forth all his various rights and obligations.

*Comment.* Several commenters requested clarification as to how complete the repayment schedule should be.

*Response.* The Office of Education encourages the use of an amortized repayment schedule, i.e., one that requires the institution to set forth the amount of

principal and interest due on each installment for the number of installments required to repay the loan in full. However, this is not a requirement. As a minimum the repayment schedule should set forth the number of principal repayments or the number of equal payments as the case may be, the rate of interest, the date the first repayment is due and the frequency of the repayments. The Office of Education realizes that a great many amortized repayment schedules are out of date before the last payment becomes due because of any one of several circumstances such as the various deferment and cancellation provisions, delinquency where extra interest accrues, etc.

*Comment.* Several commenters suggested that the exit interview before a borrower leaves school is of little value and could be done by mail before the expiration of the grace period. Many commenters feel that it is impossible to conduct an exit interview for each individual borrower since the borrower in the final term is occupied with graduation, job hunting, relocation, etc. Also, it was pointed out that many borrowers leave school without proper notification thus making it impossible to have personal exit interviews, despite the positive value of such a procedure.

*Response.* The regulation was revised. See §§ 144.41(b) (2) and 144.42(c). The Office of Education feels that the exit interview is an integral part of "due diligence" and the entire collection procedure. Although the Office of Education encourages individual interviews, mass exit interviews may be used where individual interviews are not feasibly possible. In those cases where a borrower for any reason does not show up for the interview or leaves school without proper notification, the institution shall make every possible effort to contact the borrower by mail as specified in the revised § 144.42, in order to inform him of his rights and responsibilities. As specified in the regulation the institution is required to maintain contact with the borrower while he is in his grace period. The primary purpose of this provision is to keep the borrower's mailing address current. This includes the sending of no less than three letters, i.e., of (1) disclosure, (2) notification of end of grace period, and (3) first payment approximately 30 days before the first payment is due. If the borrower's address is found to be unknown as a result, the institution must take corrective skip-trace activities. These include routine checks with all appropriate institutional offices, or if that fails, the performance of an extensive skip-trace by the institution's own personnel or by using a commercial skip-trace agency.

*Comment.* One commenter objected to the provision of § 144.42 which requires the institution to maintain contact with borrowers and to keep them informed of all changes in the program affecting their rights and obligations. The commenter claims that it is impossible to do this in all cases.

*Response.* The regulation was not changed. The Office of Education agrees

that it is impossible in the case of a lost borrower to maintain contact and always keep the borrower informed. However, if the institution performs "due diligence" as specified in Subpart C and can prove that every attempt was made to maintain contact and keep the borrower informed, it will be considered to have fulfilled its responsibilities under this regulation.

*Comment.* One commenter objected to the language in § 144.44 mandating an institution to use the services of a commercial skip-trace agency for the purpose of locating a borrower in default. The commenter pointed out that his institution recently turned over 103 accounts to such an agency but had received successful addresses only in 16. The cost was cited at \$35 per account whether or not the agency was successful.

*Response.* The Office of Education considers such a fee structure to be unreasonable and will not approve it as an "other collection cost." In no instance should an institution contract for such services on a non-contingent basis. All such contracts should be on a contingency fee basis and the costs incurred must be reasonable. Previously other collection costs were not allowed if done by the institution itself. The regulation does not mandate the use of a commercial skip-trace agency. The institution may perform its own skip-trace, the costs of which could be charged to the Fund.

*Comment.* Several commenters stated that the bond requirements for commercial collection agencies as required by § 144.45 were too high.

*Response.* The Office of Education concurs and the language of the regulation has been revised to require bonding in an amount to cover those particular assets of the Fund which are under the control of the collection agency at any particular time. The Office of Education feels that if such agencies promptly deposit collections in an institutional bank account through a "lock-box" or other similar system, the possibility of loss to the Fund would be greatly reduced and thus the amount of required bonding could be reduced accordingly.

*Comment.* One commenter suggested that § 144.45 mandates the use of a commercial collection agency.

*Response.* The regulation does not mandate the use of a commercial collection service. The regulation has been revised to provide that if an institution performs this collection activity itself, the reasonable costs of collection incurred may be charged directly to the Fund.

*Comment.* One commenter suggested that State higher education authorities which administer State loan programs be allowed to contract with the Federal Government to do billing and collection on the National Direct Student Loan Program for institutions located in a particular State.

*Response.* This suggestion was not adopted. Each National Direct Student Loan Fund represents a distinct and separate revolving trust fund at the institution. The institution itself is charged

with the responsibility of administering its own Fund. The Office of Education does not have authority to contract directly with a State in the manner suggested by the commenter.

*Comment.* Several commenters raised the question of retroactivity of the due diligence requirements of Subpart C and felt that the proposed regulation would require institutions which have performed "due diligence" in accordance with Appendix 17 of the 1967 National Defense Student Loan Manual to perform "due diligence" again as set forth in the revised regulations.

*Response.* Regulations are prospective, not retroactive. Therefore, if the institution has used Appendix 17 and has litigated and/or used a collection agency, where appropriate, it will be considered to have performed due diligence.

*Comment.* One commenter asked that consideration be given to cancellation on loans for borrowers whom an institution is unable to contact after "due diligence" as set forth in Subpart C has been followed.

*Response.* This suggestion was not adopted. There is no statutory authority for such a regulation. Furthermore the Office of Education would not consider such a provision to be advisable even if there were statutory authority for it.

*Comment.* Numerous commenters offered many and varied objections and suggestions for revision and clarification of § 144.31(e) of the NPRM. Most commenters objected to the 15 day cycle as proposed with the statement that the change would be expensive and time consuming. Also mentioned was the fact that a more frequent billing cycle would cause crossing in the mail of past due notices and repayments, leading to disgruntled borrowers. Several commenters whose institutions were on a manual system rather than a computer stated that it would be impossible to adhere to the proposed cycle. Most commenters suggested an increase in administrative expense allowance if the regulation were adopted. Most preferred the retention of the 30 day cycle set forth in Appendix 17 of the 1967 Manual.

*Response.* Due to the many comments on § 144.31 of the notice of proposed rule making this section has been revised. The regulation now calls for a first past due notice within 15 days after the due date with a 30 day billing cycle thereafter until the loan is "in default" as defined in § 144.2(v) of the regulations. The Office of Education agrees that sending an overdue notice within 15 days of the due date may be somewhat more expensive than waiting for 30 days, but feels that it is in conformance with good commercial billing practices and further is of the opinion that this essential step may prove to make the overall billing process less expensive in the long run. As to the question of an increase in routine administrative expense allowance, the 3 percent allowance is set by statute and cannot be increased by regulation.

*Comment.* One commenter suggested the use of the Internal Revenue Service

in withholding of income tax refunds and application of such withholdings to delinquent amounts due on the borrower's National Defense/Direct Student Loans.

*Response.* This suggestion should be directed to the Internal Revenue Service, since it is beyond the authority of the Office of Education.

*Comment.* One commenter requested clarification as to what steps must be taken before the costs of (1) litigation, (2) using a commercial collection agency or a commercial skip-trace agency and/or (3) the costs of more stringent collection efforts by the institution itself may be charged to the Fund as other collection costs.

*Response.* Sections 144.41-144.43 set forth the procedures which must be performed before these collection costs may be charged to the Fund.

*Comment.* One commenter objected to the use of a commercial skip-trace and commercial collection agencies entirely, citing as a reason the boon to profit-making organizations.

*Response.* The Office of Education does not agree with the comment that its billing and collection requirements are just a boon to profitmaking organizations (i.e., the various commercial billing services and collection agencies). Those requirements may be met by the institutions in any manner of their own choosing, including performance of these functions by their own personnel.

*Comment.* Several commenters suggested that a minimum write-off be provided for small balances on loans, because of the reluctance of borrowers to pay small disputed amounts and the excessive cost of attempting to collect such amounts.

*Response.* To help solve the problems cited by the commenters, § 144.32(c) has been revised to include a new subparagraph (2) which provides that a repayment schedule which results in a final payment of \$2 or less may be revised to include that amount in the next-to-last payment. Use of this provision should prevent such problems from arising in the future. To help solve the problem caused by borrowers' refusal to pay small balances of long standing, § 144.45(c) has been added to provide for the write-off of balances of \$2 or less.

**SECTION 144.46 (FORMERLY § 144.33 OF THE NPRM) OTHER COLLECTION COSTS**

*Comment.* Two commenters objected to the prohibition of charges to the fund for "other collection costs" performed by an institutional employee.

*Response.* The Office of Education concurs with the commenters' suggestion that such reasonable "other collection costs" performed by an employee of the institution are a legitimate charge to the Fund and the regulation has been revised accordingly.

**SECTION 144.47 (FORMERLY § 144.34 OF THE NPRM) UTILIZATION OF FISCAL AGENT**

*Comment.* One commenter objected to the fact that the role of a fiscal agent utilized by institutions in billing or collection of National Direct Student Loans

was covered in a single paragraph of two sentences. The suggestion was made that, since the several billing services are now possibly handling one-half or more of the total accounts in billing status, § 144.47 should be expanded in order that all concerned would be made more conversant with those requirements which relate specifically to them.

*Response.* The comment is well taken, and this section has been expanded to some extent. Furthermore § 144.48 has been added to forbid the use of a billing service and collection agency which share a common ownership or control because of the potential for conflict of interest in such a situation. In the event that an institution uses the services of a collection agency or a commercial skip-trace agency the fees charged may be on a contingency basis only. Charges which are not contingent on results are not allowed as other collection costs.

**SECTION 144.49 (FORMERLY SECTION 144.32 OF THE NPRM) BANKRUPTCY OF BORROWER**

*Comment.* Several commenters recommended elimination of this provision insofar as educational loans are concerned and wished to know whether or not consideration is being given to a revision of the law to exclude Federal educational loans from the bankruptcy law.

*Response.* The Office of Education has proposed that the Federal bankruptcy statute be amended to exclude from its provisions any Federal educational loan during the first five years of the repayment period. Bills have been introduced in Congress to this effect but none has yet been enacted.

*Comment.* A few commenters raised a question as to a possible conflict between State law and the last sentence of § 144.32 of the NPRM, which provided that if a borrower who has had his loan discharged in bankruptcy subsequently makes a payment on that loan, such payment revives the entire loan.

*Response.* The Office of Education agrees that the sentence to which reference is made in the comment is not the law in all States and it has therefore been deleted. The Office of Education wishes to alert institutions that, while the bankruptcy statute is Federal and therefore uniformly applied in all States, the provisions governing reaffirmation of a loan may vary from State to State in accordance with State law. Each institution should seek the counsel of its own attorney if any questions arise on this matter, but should be alert to the fact that a bankrupt borrower may reaffirm his debt voluntarily. The procedures according to which this is done may vary from State to State.

*Comment.* One commenter asked for clarification of procedures to be followed when a borrower enters the "Wage Earner Plan," which is part of Chapter 13 of the Bankruptcy Act.

*Response.* Institutions should seek the advice of their own attorney in all cases where doubt exists as to the legality of actions to be taken under Chapter XIII of the Bankruptcy Act. For further in-

formation on bankruptcy or the wage earner plan institutions should contact the Administrative Office of the United States Courts, Supreme Court Building, Washington, D.C. 20544. That Office will furnish bulletins on both subjects written in laymen's language.

#### SUBPART D—LOAN CANCELLATION

##### SECTION 144.51 (FORMERLY SECTION 144.41 OF THE NPRM) SPECIAL DEFINITIONS

*Comment.* Several commenters questioned the fairness of the definition of "full-time teacher" as provided by § 144.51(c) in regard to Defense Loans where a borrower is teaching part-time at two or more "institutions of higher education" and in the case of both Defense and Direct Loans where a borrower is teaching part-time in two or more local jurisdictions. It has been pointed out that neither the present regulation nor the proposed regulations accommodate the equivalency of an academic year for purposes of National Direct Student Loan cancellation for borrowers in such instances. The commenters suggest that due to the abundance of qualified teachers some equivalency standard should be established by regulation in order that persons having received loans and who are unable to secure a full-time teaching position might be able to take advantage of the cancellation provision.

*Response.* The regulation was not changed. However if a borrower can obtain appropriate certifications that he has taught in two half-time teaching positions for a complete academic year in two elementary or secondary schools or in two institutions of higher education, he will be considered to have been a full-time teacher for that academic year.

##### SECTION 144.53 (FORMERLY SECTION 144.43 OF THE NPRM) TEACHER CANCELLATIONS—DIRECT LOANS

*Comment.* One commenter suggested that the \$3,000 low-income factor in selection of designated schools in which teachers are eligible for cancellation as provided in § 144.53(a)(1) is unrealistically low and suggests that this figure be changed to \$6,000. One commenter opposes all cancellation provisions.

*Response.* The cancellation provision and the \$3,000 figure in § 144.53(a)(1) are statutory (§ 465 of the Act; 20 U.S.C. 1087ee) and cannot be changed by regulation.

*Comment.* One commenter suggested that teaching service in preschool and early childhood education programs be mentioned in §§ 144.52 and 144.53.

*Response.* The suggestion was not adopted. There is no statutory provision for cancellation of a Direct or Defense Loan for teaching in preschool or early childhood education programs unless such programs are part of elementary education under State law. (Direct Loans, however, are cancellable for teaching service in a Head Start Program. See § 144.54). Therefore, unless preschool or early education programs are recognized under State

law as providing elementary or secondary education, neither a Direct nor a Defense Loan borrower performing teaching service in such programs is eligible for partial cancellation on his loan. In any questionable case, it is incumbent upon the institution to contact the appropriate official in the State educational agency in order to determine whether the school in which the borrower is teaching is providing elementary and/or secondary education under State law.

##### SECTION 144.55 (FORMERLY SECTION 144.45 OF THE NPRM) MILITARY CANCELLATION

*Comment.* One commenter asks who is to certify that a borrower is entitled to military cancellation benefits under section 310 of Title 37 of the U.S.C. as provided for in § 144.55(b).

*Response.* Normally this certification is supplied by the borrower's commanding officer or a member of his staff. However, verification of such service in the case of a discharged borrower may be made from form DD-214, the borrower's discharge papers. The Office of Education has been advised by the Department of Defense that there are presently 3 areas of hostility. These are North Vietnam, South Vietnam and Cambodia, including the air space and surrounding waters of these areas. Also, until June 4, 1974, Laos was on the list. It is, therefore, conceivable that a borrower may be able to cancel a portion of his loan for service there.

*Comment.* One commenter raised a question concerning borrowers who leave military service prior to receiving the maximum 50 percent military cancellation benefits and subsequently reenlist.

*Response.* An interruption in military service need not eliminate the borrower's eligibility for receiving military cancellation benefits for his subsequent military service. Thus, a borrower could, for example, serve in the Armed Forces for two years, cancelling 25 percent of his loan (12½ percent each complete 12 month period), terminate his military service, then at some later point during his repayment period reenlist and again receive cancellation for his military service up to an additional 25 percent of the loan so that he ultimately would have received the maximum allowable cancellation for military service.

##### SECTION 144.55 (FORMERLY SECTION 144.46 OF THE NPRM) CANCELLATION FOR DEATH OR DISABILITY

*Comment.* Numerous commenters spoke to the fact that no provision was included in the proposed regulations for cancellation on Direct Loans made after June 30, 1972 due to the death or permanent and total disability of a borrower as was the case for Defense Loans made before June 30, 1972. Many commenters complained that the Office of Education has been derelict in its efforts to get this matter settled and also complained that they were misled by officials of the Office of Education in the past by statements that the problem could be solved by revised regulations.

*Response.* The Office of Education regrets the delay in resolving this problem. Originally it was felt that this obvious oversight in the statute could be rectified by regulation. After it was determined that this could not be done by regulation, the Office of Education submitted a request for enabling legislation. Section 130 of the Education Amendments of 1976 amended section 464(c)(1) of the Act to provide for cancellation of Direct Loans due to death or disability. This provision is retroactive to June 23, 1972.

*Comment.* One commenter commented on § 144.56(b) and objected to the wording that cancellation shall be made "upon the permanent and total disability of the borrower." The commenter suggested the phrase be changed to "if the borrower becomes permanently and totally disabled after the loan has been made" to cover the situation where a student who is already permanently or totally disabled applies for a loan.

*Response.* The Office of Education concurs and the regulation has been revised accordingly. Institutions should be cautioned against making loans to a student who is totally and permanently disabled at the time of enrollment. Although an institution could not deny a loan to such a student on these grounds, it should make clear to the student that the loan could not later be cancelled on the grounds of the borrower's pre-existing impairment. The Office of Education suggests that institutions make every effort to meet such a student's need through other more appropriate sources of financial aid.

##### SECTION 144.57 (FORMERLY SECTION 144.47 OF THE NPRM) RESPONSIBILITY FOR DETERMINATION OF CANCELLATION ENTITLEMENT

*Comment.* One commenter suggested that a formal procedure be established to review determinations by an institution concerning cancellation entitlement.

*Response.* This suggestion was not adopted. The determination of a borrower's eligibility for cancellation is the sole responsibility of the lending institution. Where a fiscal agent is involved, that agent may make a routine decision as to approval or disapproval in the matter, subject to review by the appropriate institutional officials.

##### SECTION 144.58 (FORMERLY SECTION 144.48 OF THE NPRM) CANCELLATION PROVISION NOT RETROACTIVE—NO REFUND

*Comment.* Two commenters requested clarification of the refund policy set forth in § 144.58(b) of this regulation.

*Response.* It was not the intent of this section to deny a refund to a borrower in the case of an obvious error on the part of the institution. Thus in any case where a borrower overpays due to incorrect accounting or billing on the part of the institution, a correction is in order, and such a correction may involve a refund. Also as provided in Subpart C, it is incumbent upon the institution to keep the borrower informed of all changes in the program which affect his rights and



obligations. For example the 1964 Amendments (Pub. L. 88-665) provided for cancellation for teaching service in institutions of higher education. A borrower graduating before the 1964 academic year could not have had this provision in his promissory note. If there is no proof that the institution attempted to notify the borrower of this retroactive benefit and if the borrower later teaches in an institution of higher education and makes timely payments, a refund would be in order if such a refund is required to give the borrower the cancellation benefit which he was previously erroneously denied.

**GENERAL**

*Comment.* Several commenters questioned whether the regulations would apply retroactively and expressed concern about institutional liability for procedures not required by statute and which had not been included in previous regulations.

*Response.* The procedures for establishing the effective date of these regulations are set forth below. Prior to the effective date the institution remains responsible for administering the program in accordance with the terms of the statute and applicable previously published regulations. Any requirement in these regulations which does not appear in the statute or in previously published regulations is not retroactive.

*B. Other changes.* Other technical and typographical changes have been made in the regulation.

*C. Adoption of Regulation.* After consideration of all comments, the Commissioner hereby adopts the proposed regulation which was published in the FEDERAL REGISTER on October 14, 1975 with the changes noted above as interim regulations. This regulation is set forth below.

2. The Supplemental Educational Opportunity Grant Program (SEOGP) is a program of grants established at institutions of postsecondary education to assist their students of exceptional financial need who without the grant would be unable to continue their education.

A student is eligible to apply for an SEOG if he is enrolled as at least a half-time undergraduate student in a postsecondary institution which is participating in the program. Graduate students are not eligible for an SEOG.

If a student receives an SEOG, it cannot be for less than \$200 nor more than \$1,500 a year. Normally, a student may receive an SEOG for no more than four years. However, the SEOG may be received for five years under certain special circumstances. The total SEOG award may not exceed \$1,000 for four years or \$5,000 for five years.

If a student receives an SEOG, the institution must provide him with additional financial assistance from other sources (such as a Basic Grant, a National Direct Student Loan, or employment under the College Work-Study Program) in an amount which is at least equal to the amount of the SEOG.

A student should apply for an SEOG through the financial aid officer at the

educational institution in which he is enrolled or expects to be enrolled.

Pursuant to the authority set forth in 20 U.S.C. 1070b the Commissioner is also adopting as interim regulations, the amendments to the Supplemental Educational Opportunity Grant regulations set forth below. These amendments change provisions which are common to two or more of the three "campus-based" Federal programs of student financial aid (which are the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan programs) in order to standardize such common provisions. The majority of these changes are as a result of public comment on the notices of proposed rule making published on October 14, 1975, for the National Direct Student Loan and College Work-Study programs.

In view of the fact that (1) the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study programs are Federal student assistance programs administered by institutions of higher education, (2) that many regulatory provisions involving these three programs are applicable to all three programs, (3) that it is in the interest of the institutions and the Office of Education that these common provisions be standardized and that these provisions be identical for each program so that any change in the common regulatory provisions in one program is also made in the other two, (4) that changes being made in these common provisions are as a result of public comment, and (5) that further public comment on these provisions is being requested, it has been determined that resort to public participation in rule making with regard to these interim regulations set forth below for the Supplemental Educational Opportunity Grant Program is unnecessary and contrary to the public interest. (5 U.S.C. 553(b))

3. Effective date: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with their publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.418; Supplemental Educational Opportunity Grants; No. 13.471, National Direct Student Loans)

Dated: August 13, 1976.

WILLIAM F. PIERCE,  
Acting U.S. Commissioner  
of Education.

Approved: November 4, 1976.

DAVID MATHEWS,  
Secretary of Health, Education,  
and Welfare.

1. Part 144 of Title 45 of the Code of Federal Regulations is amended to read as follows:

	<b>Subpart A—General Provisions</b>
Sec. 144.1	Scope and purpose.
144.2	Definitions.
144.3	Apportionment and reapportionment of Federal capital contributions to States.
144.4	Allocation, reallocation and payment of Federal capital contributions to institutions.
144.5	Institutional applications.
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	<b>AUTHORITY:</b> Title IV, Part E of the Higher Education Act of 1965, as added by section

137(b) of Public Law 92-318, 86 Stat. 273 (20 U.S.C. 1087aa-87f), and Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-29), unless otherwise noted.

#### Subpart A—General Provisions

##### § 144.1 Scope and purpose.

(a) Title IV, Part E of the Higher Education Act of 1965 authorizes the National Direct Student Loan Program for the purpose of assisting in the establishment and maintenance of funds at participating institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

(b) The National Direct Student Loan Program is and shall be deemed to be a continuation of the National Defense Student Loan Program authorized by Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-429). Except as otherwise provided in this part 144, all rights, privileges, duties, functions, and obligations under such Title II prior to the enactment of the Education Amendments of 1972 (Public Law 92-318) shall be deemed to be vested under Title IV, Part E of the Higher Education Act of 1965. Any student loan Fund established under an agreement under such Title II shall, to the extent not otherwise provided in this part 144, be deemed to have been established under such Part E, and any assets of such student loan Fund of any institution shall be deemed to be the assets of a student loan Fund established under an agreement of that institution with the Commissioner under such Part E.

(20 U.S.C. 1087aa; Public Law 92-318, section 137(d) (1))

##### § 144.2 Definitions.

For the purposes of this part:

(a) "Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(b) "Act" means Title IV—Part E of the Higher Education Act of 1965, as amended.

(c) "Basic Educational Opportunity Grants Program" means the program authorized by Title IV—A, Subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a)

(d) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture or recitation, or (2) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(20 U.S.C. 1087aa-f)

(e) "College Work-Study Program" is a federally supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751-2756)

(f) "Commissioner" means the United States Commissioner of Education.

(20 U.S.C. 1141(b))

(g) "Defense Loan" means a loan made under this part before July 1, 1972.

(h) "Delinquency rate" means with regard to loans made under this part the amount of principal "in default" but not "uncollectible" divided by the amount of principal paid, cancelled, or past due, but not "uncollectible." No loan currently in deferred status is considered past due, even if it was past due before the beginning of the deferment period.

(i) "Dependent student" means any student who does not qualify as a "self-supporting or independent student" as defined in § 144.2(dd).

(j) "Direct Loan" means a loan made under this part after June 30, 1972.

(k) "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 144.11 and the amount which reasonably may be expected to be made available to him by his parents for such purpose.

(l) "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 144.11.

(m) "Federal capital contribution" means the portion of a Fund deriving from Federal contributions, or a specific amount provided by the Commissioner to augment such Fund.

(n) "Federal institutional loan" means a loan made by the Commissioner to an institution to enable that institution to make an institutional capital contribution to its Fund.

(20 U.S.C. 1087aa-f)

(o) "Financial need" means the difference between a student's cost of education and his expected family contribution.

(p) "Full-time student" means a student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(20 U.S.C. 1088(c) (2))

(q) "Fund," or "National Direct Student Loan Fund," means a Fund established and maintained in accordance with § 144.8.

(r) "Good standing" means, with regard to a student, that the institution in which the student is enrolled has determined that (1) the student is eligible, in accordance with its own standards and practices to continue in attendance at the institution, and (2) the student is making measurable progress toward the completion of his course of study.

(s) "Graduate or professional student" means, in general, a student who is enrolled in an academic program of instruction above the college level which

is provided at an institution of higher education. The term includes (1) that portion of any program involving a period of study beyond four years of study at the college level, or (2) any portion of a program leading to (i) a degree beyond the bachelor's or first professional degree, or (ii) a first professional degree, when at least three years of study at the college level are required for entrance into a program leading to such degree.

(20 U.S.C. 1087aa-f)

(t) "Half-time graduate student" means a graduate or professional student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered half-time graduate study.

(u) "Half-time undergraduate student" means an undergraduate student who is carrying a half-time undergraduate academic work load measured in terms of (1) the tuition and fees customarily charged for such half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled: *provided*, however, that such course work and activities amount to the equivalent of a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semester, trimester, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock hours per week for institutions which utilize clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week shall be considered half-time students for purposes of this part.

(20 U.S.C. 1088(c) (2))

(v) "In default" means with regard to a loan made under this part that (1) the borrower failed to make an installment payment when due, and (2) such failure persisted (i.e., was not cured either by payment or other appropriate arrangements) for 120 days in the case of loans repayable in monthly installments, or for 180 days in the case of loans repayable in less frequent installments.

(w) "Institutional capital contribution" means the portion of a Fund deriving from institutional contributions or a specific amount provided by the institution to augment such Fund.

(20 U.S.C. 1087cc)

(x) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to pro-

vide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) (i) is accredited by a nationally recognized accrediting agency or association, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (iii) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (iv) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5) of this paragraph. For purposes of this part a one-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction. The term "institution of higher education" also includes any proprietary institution of higher education, as defined in § 144.2 (bb), which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a))

(y) "National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a) (22))

(z) "Nonprofit" as applied to a school or institution means a school or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(20 U.S.C. 1141(c))

(aa) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's

support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case such person shall be considered a parent.

(20 U.S.C. 1087aa-f)

(bb) "Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years. For purposes of this part a six-month program of training means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b) (8))

(cc) "Public" means under public administrative control and direction.

(20 U.S.C. 1087aa-f)

(dd) "Self-supporting or Independent Student" means a student who is either (1) a veteran as defined in § 144.2(hh) or (2) a student who:

(i) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested;

(ii) Has not received and will not receive financial assistance of more than \$600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested; and

(iii) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received \$600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a loan.

(20 U.S.C. 1087aa-f; 20 U.S.C. 1087dd(e))

(ee) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,

the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(ff) "Supplemental Educational Opportunity Grant Program" means a grant program for students with exceptional financial need authorized by Title IV-A-2 of the Higher Education Act of 1965.

(20 U.S.C. 1070b et seq.)

(gg) "Uncollectible," with regard to a loan made under this part, means a loan which is "in default" for two years or more despite the institution's exercise of due diligence. For loans which become past due after the effective date of this regulation, "due diligence" means that the institution has undertaken all the steps set forth in Subpart C of this part.

(hh) "Veteran" means a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

(38 U.S.C. 101(2))

(20 U.S.C. 1087aa-f unless otherwise noted)

**§ 144.3 Apportionment and reapportionment of Federal capital contributions to States.**

(a) *Apportionment.* (1) From 90 percent of the sums appropriated for Federal capital contributions pursuant to section 461(b) (1) of the Act for any fiscal year, the Commissioner will apportion to each State an amount which bears the same ratio to the total amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education in such State, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, bears to the total number of such persons so enrolled in all the States. If the amount so apportioned to any State is less than its allotment under section 202(a) of the National Defense Education Act of 1958 for fiscal year 1972, additional sums shall then be apportioned to each such State from the remaining 10 percent of the sums appropriated pursuant to section 461(b) (1) to make its apportionment for such year equal to its allotment for fiscal year 1972 under section 202(a). (The table set forth as Appendix A to this part indicates the amounts apportioned to each State under section 202(a) for the fiscal year ending June 30, 1972.) In the event that the funds available are insufficient to meet that level, the Commissioner will instead apportion the remaining 10 percent of the sums appropriated so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment under section 202(a).

(2) The Commissioner will apportion any sums remaining after the apportionment of funds under subparagraph (1) of paragraph (a) of this section to those States which received the lowest percentage of approved requests for Federal capital contributions as a result of the apportionment under subparagraph (1) of paragraph (a) of this section, so that

no State will receive less than a uniform minimum percentage of its total approved requests for Federal capital contributions.

(b) *Reapportionment.* If the amount of an apportionment to a State under paragraph (a) of this section exceeds the total amount of approved requests for Federal capital contributions of institutions of higher education in that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner will reapportion to each State in which the total approved requests for Federal capital contributions of institutions of higher education in that State exceeded the amount of funds apportioned to that State an amount which bears the same ratio to such aggregate as the total amount of such shortfall in that State bears to the total amount of such shortfalls in all the States.

(20 U.S.C. 1087bb)

**§ 144.4 Allocation, reallocation and payment of Federal capital contributions to institutions.**

(a) *Allocation of funds to institutions.*

(1) Subject to the provisions of subparagraphs (2) and (3) of this paragraph, when funds available for distribution among the institutions within a State for Federal capital contributions are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including both apportionments and reapportionments, bears to the total approved requests for that State.

(2) If the amount of the institutional capital contribution is less than the amount required under § 144.3(b) (2) to match the Federal capital contribution which the institution will receive in accordance with subparagraph (1) of this paragraph, then the amount of the Federal capital contribution which would have been awarded under subparagraph (1) of this paragraph shall be reduced to an amount equal to not more than nine times the amount of institutional capital contribution that the institution is able to contribute to its Fund.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, amounts which would otherwise be granted to proprietary institutions of higher education for any fiscal year shall be proportionately reduced to the extent necessary to produce an aggregate of such amounts which does not exceed the amount by which sums appropriated pursuant to section 461(b) (1) of the Higher Education Act of 1965 for such fiscal year exceeds \$190,000,000.

(b) *Reallocation.* If an institution fails to accept all of the Federal capital contribution that has been granted to it, or if it projects that it will not use a portion of its allocation by the end of the period for which such funds were made avail-

able, the amount not accepted or used shall be restored as part of the apportionment of the State in which such institution is located. When the aggregate of funds thus restored to a State's apportionment becomes sufficient to increase significantly the amount of the Federal capital contributions that can be awarded to other institutions within the State, such funds shall be granted to such other institutions in accordance with subparagraph (1) of paragraph (a) of this section.

(c) *Payment.* Payment of the Federal capital contribution will be made in such installments as the Commissioner determines will not result in unnecessary accumulations of capital in the student loan Fund of the applicant.

(20 U.S.C. 1087bb)

**§ 144.5 Institutional applications.**

(a) An institution that wishes to participate in the National Direct Student Loan Program shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such application shall contain the following information, except as provided in paragraph (c) of this section, and shall be in such form and contain such other information as the Commissioner may from time to time prescribe:

(1) The institution's requests for Federal student financial aid funds under this part, the College Work-Study Program, the Supplemental Educational Opportunity Grants Program, and its anticipated disbursements under the Basic Educational Opportunity Grants Program;

(2) The institution's anticipated enrollment for the forthcoming academic year;

(3) The anticipated number of enrolled students eligible for loans;

(4) The institution's average cost of education, including a justification of any annual per student costs in excess of \$175 for books or \$450 for personal expenses for an academic year;

(5) An estimate of the average amount which reasonably may be expected to be made available by the parents of students at the institution who are expected to be eligible for such loans;

(6) The anticipated average loan;

(7) The amount of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent academic year for which information is available;

(8) The anticipated amount of other financial assistance available to students with financial need at the institution, such as State scholarships, Veteran's Benefits, and off-campus employment;

(9) The amount of cash carryover in the Fund available for relending;

(10) The qualifications of the professional personnel who will be administering the National Direct Student Loan Program including their ability to conduct a vigorous and effective collection effort;

(11) The institution's loan "delinquency rate." If this rate exceeds 10%,

an institution shall provide an explanation as to why this rate exceeds 10%;

(12) The total amount of collections and other income of the Fund received by the institution during the fiscal year and the total amount of such collections and other income received too late to relend; if the total amount received too late for relending exceeds 25% of the total amount received during the fiscal year, the reason why this percentage exceeds 25%;

(13) The average unmet need per student; if the average amount of unmet need exceeds \$200, the reason why this figure exceeds \$200;

(14) Whether the institution intends to apply for Federal institutional loans pursuant to subpart E of this part; and

(15) The amount of funds the institution has available to use as its institutional capital contribution and the extent, if any, that such amount consists of an anticipated Federal institutional loan under subpart E of this part.

(b) The application shall be signed by the official authorized to submit the application and by the institution's Director of Student Financial Aid, and shall contain the name of the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds.

(c) An institution may file an application omitting the information required by subparagraphs (4), (5), (8), and (13) of paragraph (a) if (i) it has received an allocation under this part for the two academic years prior to the academic year for which assistance is requested, (ii) it is requesting not more than 110% of its approved request for the academic year prior to the academic year for which assistance is requested, and (iii) it has filed an application containing the information required by subparagraphs (a) (4), (5), (8), and (13) for one of the three preceding academic years. (20 U.S.C. 1087bb)

**§ 144.6 Funding criteria.**

An institution's request for funds under this part will be reviewed in accordance with the following criteria:

(a) The reasonableness of the institution's total request for Federal student financial aid funds under this part (1) in light of its requests under the College Work-Study Program and the Supplemental Educational Opportunity Grants Program, and (2) in relation to the institution's anticipated enrollment, its average cost of education, and the average expected family contribution of its students eligible under those programs;

(b) The reasonableness of the institution's projections of its anticipated enrollment and of its average cost of education and the average expected family contribution of its students eligible under those programs;

(c) The reasonableness of the anticipated number of students eligible for loans, in view of the institution's anticipated enrollment;

(d) The reasonableness of the amount of the average loan anticipated in relation to the average need per student at

the institution, after taking into account other available student financial aid resources;

(e) The extent to which the institution has effectively utilized Federal financial aid funds allocated in previous years;

(f) The amount of cash carryover in the Fund available for relending;

(g) The adequacy of explanations provided by the institution pursuant to § 144.5(a) (4), (11), (12), or (13), and

(h) The extent to which the institution has effectively administered or made provision for the effective administration of the program, including the extent to which it has made a vigorous and effective effort on collection of loans, and the extent to which it has effectively coordinated this program with institutional and other programs of student financial aid. In making this evaluation, consideration will be given to the adequacy of the qualifications and experience of the personnel designated by the institution to administer the program.

(20 U.S.C. 1087bb)

§ 144.7 Application review and approval of request.

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel shall evaluate each institution's request for funds in accordance with the criteria set forth in § 144.6 and shall recommend an amount which it deems appropriate.

(2) No panelist shall participate in the consideration of any application from his own institution or any application from any other institution which he has prepared or assisted in preparing or in which he has any personal or financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel pursuant to paragraph (a) of this section. If the amount recommended is less than the institution's request, the reasons for such a reduction will be forwarded to the institution. The institution shall notify the regional office of the Office of Education serving the area in which the institution is located of any arithmetic or other technical errors with regard to the panel recommendation. The regional office will adjust the recommendation to correct such errors

(c) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it shall submit a written request for such review to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review such a request and will notify the institution in writing of its decision and the reasons therefor.

(d) (1) If an institution wishes a review of the regional office recommendation made pursuant to paragraph (c) of this section, it may request a review by a national review panel. Such a national review panel shall consist of institutional student financial aid officers from each of the regions served by the Office of Education and personnel of the Office of Education.

(2) A request for national review shall be submitted in writing by the institution to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review such request and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1087bb)

§ 144.8 Institutional agreement.

An institution of higher education which desires to participate in the National Direct Student Loan Program shall enter into an agreement with the Commissioner for that purpose. Such agreement shall:

(a) Provide for the establishment and maintenance of a Student Loan Fund (Fund) by the institution;

(b) Provide for the deposit in the Fund of:

(1) Federal capital contributions;

(2) A capital contribution by the institution in an amount equal to not less than one-ninth of the amount of the Federal contribution (institutional capital contribution);

(3) Collections of principal and interest on student loans made from the Fund;

(4) Payments to the institution by the Commissioner pursuant to section 465(b) of the Act as a result of cancellations on Direct Loans;

(5) Penalty charges collected pursuant to § 144.32(f); and

(6) Any other earnings of the Fund;

(c) Provide that the Fund be used only for:

(1) Loans to students in accordance with the agreement;

(2) Payments to the institution in lieu of reimbursement for administrative expenses in the amount provided for in § 144.17;

(3) Capital distributions as provided in section 466 of the Act;

(4) Costs of litigation; and

(5) Other collection costs agreed to by the Commissioner in connection with the collection of principal, interest, and penalty charges, if any, on a loan made from the Fund. Such "other collection costs" are described in § 144.46 but do not

include costs of employing individual contractors or agents to handle collection duties that reasonably may be expected to be performed by lending institution's own personnel as part of the routine administration of this program.

(d) Provide that where a note or written agreement evidencing a loan has been in default (as defined in § 144.2(v)) for at least two years despite due diligence on the part of the institution in making collection thereon as provided in Subpart C of this part, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general Fund of the Treasury;

(e) Provide that the institution shall submit a report to the Commissioner, on at least a semi-annual basis, indicating the total number of loans made from its fund which are in default;

(f) Provide that the institution shall make loans from the Fund reasonably available (to the extent of the available funds in such Fund) to all eligible students in the institution in need thereof; and

(g) Contain such other provisions as the Commissioner finds necessary, in light of special and unusual circumstances, to protect the financial interest of the United States and to promote the purposes of this part.

(20 U.S.C. 427, 1087bb, 1087cc)

§ 144.9 Student eligibility.

(a) General. A student is eligible for a loan under this part if such student:

(1) Is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Is in need of the amount of the loan to pursue a course of study at an eligible institution;

(3) Is capable, in the opinion of the institution, of maintaining good standing in such course of study; and

(4) Has been accepted for enrollment as at least a half-time undergraduate, graduate, or professional student in such institution or, in the case of a student already attending such institution, is in good standing and is enrolled as at least a half-time undergraduate, graduate, or professional student in such institution. In any case in which a student who has been determined to be eligible for a loan and thereafter fails to maintain good standing, the eligibility of such student shall be suspended, and no loan payments to, or on behalf of, such student shall be made until he regains good standing.

(b) Programs of study abroad. A student participating in a program of study abroad will be considered to be enrolled in his "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution and (2) the student's academic performance during the program of study abroad becomes a part of his permanent



academic record at the home institution in the same manner as if performed at that institution.

(c) *Need.* For purposes of paragraph (a) (2) of this section a student shall be considered in need if his cost of education at the institution at which he is enrolled or accepted for enrollment exceeds his expected family contribution as determined pursuant to § 144.12.

(d) *Religious communities.* For purposes of paragraph (a) (2) of this section a member of a religious community, society, or order who by direction of his or her community, society or order is pursuing a course of study in an institution of higher education or who receives support and maintenance from the community, society, or order shall be deemed not to have financial need.

(e) *Selection.* Loans made under this part shall be made reasonably available to all eligible student applicants except that no loan may be made under this part to any student who indicates an unwillingness to repay that loan. In the event applications for loans exceed available funds, the order of selection shall be made on the basis of need. The institution shall establish procedures for selecting among eligible students and such procedures shall be (1) set forth in writing, (2) available for public inspection, and (3) maintained in the files of the institution's office which selects students as loan recipients.

(20 U.S.C. 1087dd)

(f) *Affidavit of educational purpose.* No loan may be made under this part unless the student to whom it is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit on a form approved by the Commissioner stating that the money attributable to such loan will be used solely for expenses related to attendance or continued attendance at such institution. The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at such institution. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(20 U.S.C. 1088g)

(20 U.S.C. 1087dd)

#### § 144.10 Coordination with Bureau of Indian Affairs grants-in-aid.

(a) In determining the amount, if any, of a loan to be made to a student who is eligible for such a loan and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 144.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution

shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assistance. Except as provided for in paragraph (a) (4) of this section, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in subparagraph (3) of this paragraph may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA post-secondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(20 U.S.C. 1087dd)

#### § 144.11 Cost of education.

(a) The amount required to enable a student to pursue his education at an institution of higher education includes amounts charged for tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance

of a student's dependents. (b) In the case of a student engaged in a program of study by correspondence only his costs of tuition and fees shall be recognized as a cost of education for the purpose of this part; *provided*, however, that travel and room and board costs incurred specifically in fulfillment of a required period of residential training may be considered a cost of education for such a student. (c) If a student is enrolled in a program of study outside the United States which has been determined to be an eligible program pursuant to § 144.9 (b), his cost of education may not exceed his cost of education at his home campus.

(20 U.S.C. 1087dd)

#### § 144.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student, the student's spouse, and the student's parents to meet that student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parents may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet such student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) *Special considerations.* Upon the request of a student who does not live with his parents, who visits his parents for periods of time no longer than those which are typical for adults visiting their parents, and who does not receive from his parents gifts which exceed in value the amounts typically given by parents as incidental gifts to their adult, non-dependent offspring, the student financial aid officer shall make a determina-

tion as to whether the relationship between that student and his parents is of such a nature that it is unreasonable to expect the parents to contribute toward his cost of education, regardless of their ability to do so. The student financial aid officer shall make the reasons for such a determination part of the institution's written records. In any event, before making such a finding, the student financial aid officer shall make such efforts as he deems appropriate to ascertain whether the student's parents are in fact willing to contribute toward the student's cost of education.

(20 U.S.C. 1087dd)

**§ 144.13 Approved need analysis systems.**

(a) *General.* In order to comply with the requirements of § 144.12 of this part, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) *Dependent students.* (1) The Commissioner has approved the following systems for the purpose of § 144.12, with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$12,500 if such assets do not include farm or business assets and \$25,000 if such assets do include farm and business assets, except that no more than \$12,500 may be deducted from non-farm and non-business assets, and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.12, for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by the following calculations:

(a) From the sum of the adjusted gross income and non-taxable income of the

parents, there will be deducted the amount of Federal income taxes and Social Security taxes, an allowance of 8 percent of total income for state and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(b) To the remainder obtained in subparagraph (a) will be added 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve of \$10,000; and

(c) The following rate schedule of expected contributions will then be applied to the sum obtained in subparagraph (b):

If the sum is—		The expected contribution is—
At least—	But less than—	
\$0.....	\$4,000	22 pct of the amount over \$0.
\$4,000.....	5,000	\$80+25 pct of the amount over \$4,000.
\$5,000.....	6,000	\$1,130+29 pct of the amount over \$5,000.
\$6,000.....	7,000	\$1,420+34 pct of the amount over \$6,000.
\$7,000.....	8,000	\$1,790+40 pct of the amount over \$7,000.
\$8,000.....		\$2,160+47 pct of the amount over \$8,000.

(iii) In developing the sample cases for the purposes of this paragraph, the Commissioner shall select only cases in which the age of the main wage earner is 45 years and in which the elements set forth in paragraph (b) (2) (ii) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, house-keeping allowances, farm or business assets, more than one family member attending post-secondary institutions, Social Security or Veteran's benefits or any unusual family circumstance.

(iv) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero shall be treated as zero.

(v) The figures for the set of sample cases used for purposes of this paragraph shall be revised annually for inflation by adjusting the deductions for family maintenance, the \$10,000 standard deduction from assets and the rates of contribution from income and assets as necessary in such a manner that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(c) *Independent students.* (1) The Commissioner has approved the following systems for the purpose of § 144.12, with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service; and

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.12, for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (i) of this paragraph.

(d) *Application procedures for system approval.* Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (c) (2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) *Duration of approval.* Need analysis systems approved pursuant to subparagraphs (b) (1) and (c) (1) of this section are approved without a specific expiration date. A need analysis system approved pursuant to subparagraph (b) (2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (i) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (ii) in determin-

ing the eligibility of students for loans under this part, and in calculating the amount of such loans, to be used by the students during any academic year commencing not earlier than 9 months and not later than 22 months following that September 1. A need analysis system approved pursuant to subparagraph (c) (2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that subparagraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1087dd)

**§ 144.14 Coordination of student financial aid programs, loan amount, and over-award.**

(a) *Coordinating official.* The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Total award.* The institution shall not award assistance under this part to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 144.13(c); provided, however, that in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program, regardless of whether the student has applied for such funds, any waiver of tuition and fees, any scholarship or grant-in-aid including Supplemental Educational Opportunity Grants and athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies,

any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of Guaranteed Loans.*  
(1) Except as provided in paragraph (d) (2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 144.13. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution if (i) the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or (ii) the amount of the loan would cause the total amount of the borrower's loan insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for the academic year.

(e) *Institutional responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know or can reasonably anticipate at the time that the assistance under this part is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic year and/or special session during which the student is receiving assistance under this part shall be deemed to have been known by the institution at the time of the disbursement of such assistance.

(f) An institution will be deemed to have violated the requirements of this section only if the sum of all the resources made available to the student, including assistance under this part, exceeded the student's need by more than \$100. However, if the resources made available to the student included compensation for work-study employment and the student earned additional money from other employment, the institution will be deemed to have violated the requirements of this section only if the sum of the assistance received by the student exceeded the student's need by more than \$200.

(20 U.S.C. 1087dd)

**§ 144.15 Disbursement of loans.**

(a) A loan for an academic year shall be advanced by the institution to the student borrower in equal installments in each semester, trimester, or quarter if the institution uses such academic periods; otherwise, for those institutions not using such academic periods, advances shall be made at least twice per academic year with one advance being at the beginning and the other at the midpoint of that academic year.

(b) A loan for a period shorter than an academic year shall be advanced by the institution to the student borrower in such installments as are deemed appropriate so as to enable the borrower to apply such payments to the costs reasonably necessary for his attendance at the institution during the academic period for which the loan was approved; except that no borrower may receive, during a given academic period, a loan in an amount in excess of the amount of his need for such a loan during that period, determined pursuant to § 144.14.

(c) For purposes of this section a program of training of at least six months' duration to prepare students for gainful employment in a recognized occupation shall be considered an academic year.

(d) Loan payments from a Fund shall be evidenced in the institution's records by cancelled checks or vouchers or, if the institution elects any other method of disbursement by a clear audit trail including an acknowledgement of receipt from each borrower indicating the method by which payments to him were made.

(e) Loan payments from a Fund shall not be made unless the borrower has filed with the institution the affidavit required pursuant to § 144.9(f) of this part and the institution has complied with the Truth in Lending requirements of Regulation Z (12 CFR 226).

(20 U.S.C. 424, 1087cc)

**§ 144.16 Special sessions.**

(a) A student enrolled in an institution of higher education in one or more classes during a period of special enrollment, such as a special summer term, will be eligible for a National Direct Student Loan if he (i) meets the other eligibility requirements of this part, (ii) is registered as at least a half-time student at that institution during such session, and (iii) is either in attendance as at least a half-time student at that institution during the regular term immediately preceding such session or will be enrolled or has been accepted for enrollment as at least a half-time student during the subsequent regular term at that institution.

(20 U.S.C. 1087aa-ff)

**§ 144.17 Administrative expenses.**

An institution shall be entitled for each fiscal year during which it makes loans from its Fund to a payment in lieu of reimbursement for its expenses in administering its National Direct Student Loan Program during such year. Such



payment shall be payable from the institution's Fund and shall be in an amount equal to three percent of the principal amount of loans made from such Fund during the fiscal year, except that the aggregate amount paid to an institution under this paragraph plus the amount paid to such institution in lieu of expenses for administration under the College Work-Study and the Supplemental Educational Opportunity Grant Programs shall not exceed \$125,000 for any fiscal year.

(20 U.S.C. 424, 1087cc, 1088b)

**§ 144.18 Fiscal procedures and records.**

(a) *Fiscal procedures.* (1) The institution shall administer the National Direct Student Loan Program in such a manner as to provide for an adequate system of internal controls. The various administrative procedures shall be divided so as to provide for a system of checks and balances under which no person will be directly responsible for all aspects of the program. The functions of authorizing payment and disbursing funds shall be divided in such a fashion that no office has responsibility for both functions with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions shall give notice to any bank in which they deposit Federal funds of all accounts in that bank in which such funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution shall establish and maintain on a current basis such general ledger control accounts and related subsidiary accounts as are necessary to identify all transactions involving Federal funds available under this part and to separate records of such transactions from all other institutional assets and activities. Such records shall afford ready identification of each student's account and the status thereof, and shall be adequate to demonstrate the eligibility of every student aided under the program, shall indicate the amount of need determined for each student and the way that need has been met, and shall identify the institutional officer who made the determination of such need.

(2) An institution shall submit an annual Institutional Fiscal-Operations Report and such other reports and information in such form and at such times as the Commissioner may require in connection with the administration of this part and shall comply with such requirements as the Commissioner may find necessary to insure the correctness of such reports.

(c) *Retention of records.* (1) *Records.* Each institution shall keep intact and ac-

cessible records relating to the receipt and expenditure of Federal funds, including all accounting records and related original and supporting documents that substantiate costs charged to the Fund.

(2) *5 year period.* Except as provided in subparagraphs (3) and (5) of this paragraph, the records specified in subparagraph (1) of this paragraph shall be retained for five years after the close of the fiscal year to which they pertain or the date of submission of a report required by the Commissioner under this part for such fiscal year, whichever occurs later.

(3) *Loan records.* An institution shall retain all financial and repayment records pertaining to any individual loan made under this part for not less than five years from the date on which the entire amount of the loan has been repaid, cancelled, or assigned in accordance with this part.

(4) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(5) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit question; provided, however, that records need not be retained if they relate to a payment with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(6) *Audit and examination.* The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in subparagraphs (1) and (3) of this paragraph and to any other pertinent books, documents, papers, and records of the recipient.

(d) An institution need not maintain separate records for National Defense Student loans as opposed to National Direct Student loans except with respect to loan cancellation.

(e) *Audits—non-Federal.* All of an institution's transactions involving the assets of its Fund shall be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of such audits shall depend on the size and complexity of the activity of the Fund except that such audits shall be carried out at least once every two years.

(f) Such audit reports shall be submitted to the HEW-Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located. The Audit Agency and the Commissioner shall also be given access to

records or other documents as may be necessary to review the results of such audits.

(g) Promissory notes and student loan ledgers shall be maintained in good order in a locked fireproof container. Only authorized personnel shall have access to these documents.

(20 U.S.C. 424, 1087cc)

**§ 144.19 Federal interest in allocated funds—transfer of Loan Fund.**

(a) Funds received by an institution pursuant to this part, excluding funds authorized for administrative expenses, are to be held in trust for the intended student beneficiary. Such funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(b) (1) If an institution responsible for the maintenance of a Loan Fund established pursuant to § 144.8, including the collection of outstanding loans, ceases operation or is no longer willing to participate in the program, the Commissioner will take such steps as are necessary to protect the Federal interest in that Loan Fund and in those outstanding loans. Such steps may include (i) the undertaking of a capital distribution of the liquid assets of the Fund in accordance with § 468(c) of the Act, (ii) the transfer of the outstanding loans of the Funds to another institution in the same State, or (iii) the transfer of the outstanding loans to the Office of Education if no institution in that State wishes to receive such loans.

(2) The cost of collecting the transferred loans described in subparagraph (1) of this paragraph shall be deemed to equal the institutional share of such loans.

(3) If the loans described in subparagraph (1) of this paragraph are transferred to another institution in the same State, the transferee institution may deposit all the funds it collects on such loans in its own Loan Fund established pursuant to § 144.8 and the transferrer institution's share of such collections shall be deemed the transferee institution's institutional capital contribution.

(4) If the loans described in subparagraph (1) of this paragraph are transferred to the Office of Education, the Commissioner may use the institutional share of the funds he collects to pay for the costs of collecting such loans.

(c) If more than one institution in that State offers to undertake the collection of the outstanding loans referred to in paragraph (b) of this section, the Commissioner will select the transferee institution primarily on the basis of the institution's demonstrated capability in the area of loan collection and secondarily on the basis of the number of students of the transferrer institution expected to enroll in the transferee institution.

(d) If a transfer of a Fund is made pursuant to paragraph (b) (1) (ii) of this section, no audit exceptions will be taken against the transferee institution on account of actions or omissions of the transferrer institution in the administra-

tion of its Fund prior to such transfer. Such a transferred Fund shall be maintained by the transferee institution as a segregated account until an audit satisfactory to the Commissioner has been performed on the operator of the program at the transferrer institution.

(20 U.S.C. 1087aa-f; 1087cc(a) (5))

**§ 144.20. Termination and suspension.**

(a) If the Commissioner finds that any of the assurances or representations made by an institution in connection with the administration and operation of the National Direct Student Loan Program is incomplete or inaccurate in any material respect, or that there has been a failure to comply with any of the provisions of this part, or that there has been a failure to carry out any of the provisions agreed to by the institution pursuant to § 144.8, he may, after giving the institution notice and an opportunity for a hearing, terminate the agreement entered into pursuant to § 144.8 or take such other actions as may be necessary and appropriate to protect the interest of the United States. The termination of the institution from the program shall not affect the obligations previously incurred by either party under that agreement or this part.

(b) *Notice of termination.* Proceedings with respect to the termination of the program shall be initiated by the mailing of a notice to the institution setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(c) *Suspension of assistance.* Subject to paragraph (e) of this section, assistance may be suspended while a termination proceeding initiated pursuant to this section is pending.

(d) *Notice of suspension.* If the Commissioner determines that it is necessary to suspend assistance while a termination proceeding is pending, notice of the suspension shall be mailed to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) inform the recipient of that determination; (2) advise the recipient of the effective date of the suspension; and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Opportunity to show cause.* If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(20 U.S.C. 1087aa-f)

**§ 144.21 [Reserved]**

**Subpart B—Terms of Loans**

**§ 144.31 Limitations governing aggregate amount of loans.**

The aggregate of the loans for all years made by institutions of higher education from Loan Funds established pursuant to agreements under this part may not exceed:

(1) \$10,000 in the case of any graduate or professional student, including any

loans from such Funds made to such person before he became a graduate or professional student;

(2) \$5,000 in the case of a student who has successfully completed two academic years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree, and including any loans from such Funds made to that person before he became such a student; and

(3) \$2,500 in the case of any student who has not completed two academic years of a program of education leading to a bachelor's degree.

(20 U.S.C. 1087dd)

**§ 144.32 Promissory note—loan repayment.**

(a) *Evidence of indebtedness.* A loan shall be evidenced by a promissory note executed by the student borrower. A promissory note acceptable to the Commissioner is set forth in Appendix B. Except for optional provisions permitted under this section, any substantive deviation from the provisions of this promissory note form must be approved by the Commissioner prior to the making of any loans to be evidenced thereby. A copy of the executed note shall be supplied to the borrower.

(b) *Rate of interest.* The note evidencing a loan shall provide that the loan shall bear interest on the unpaid balance at the rate of three percent per annum, except that no interest shall accrue prior to the date of commencement of repayment as specified in paragraph (c) of this section or during any period in which repayment is deferred in accordance with § 144.34(a).

(c) *Repayment.* (1) Except as provided in paragraph (c)(2) and paragraph (e) of this section (minimum repayments), and in § 144.34 (deferments), the note evidencing a loan shall provide for repayment of the principal amount, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Commissioner) payable quarterly, bimonthly, or monthly, at the option of the institution, or a period beginning nine months after the date on which the borrower ceases to carry, at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal full-time academic work load (half-time work load), except that such period may begin earlier at the request of the borrower, and ending 10 years and nine months after the date on which the borrower ceases to carry a half-time work load. Selection of a repayment plan shall be made prior to the date on which the student ceases to be enrolled on at least a half-time basis at the lending institution. A copy of the repayment plan, when established, must be attached to the promissory note and a copy shall also be supplied to the student borrower.

(2) If the applicable repayment plan results in a final payment of not more

than \$2, the institution may increase the next-to-last payment of the repayment plan to include that amount.

(3) Any loan repayment made by a borrower shall first be applied against any interest due on the loan with the remainder of that repayment against principal.

(d) *Accelerated repayment.* (1) The note evidencing a loan shall provide that a borrower may, at his option and without penalty, accelerate repayment of the whole or any part of the loan at any time except that any refund attributable to a loan made under this part and any repayment made by the student during the academic year for which the loan was made shall be treated as a reduction in the original amount of the loan and not as a repayment.

(2) Unless the borrower indicates otherwise, any amount paid by the borrower which exceeds the amount due for that period or any previous period shall be considered as a repayment of principal rather than an advance payment on any subsequent installment.

(e) *Minimum rates of repayment.* (1) *Defense Loans.* (i) If monthly repayment amounts of principal and interest which would otherwise be required pursuant to paragraph (c) of this section on a Defense Loan are less than \$15 a month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may at its option and if it has so provided in the note evidencing the loan, require a student borrower to make such payments of principal and interest at a monthly rate of not more than \$15. (ii) If a borrower has obtained Defense Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of \$15 per month, and only one institution exercises the \$15 minimum monthly repayment option, the institution which exercises the option shall receive the difference between \$15 and the monthly repayment rate of principal and interest owed to the other institution. (iii) If a borrower has obtained Defense Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of \$15 per month and each of the institutions exercises the \$15 minimum monthly repayment option, such \$15 minimum repayment shall be divided among such institutions in proportion to the total amount of principal advanced by each of the institutions.

(2) *Direct Loans.* (i) If monthly repayment amounts of principal and interest which would otherwise be required pursuant to paragraph (c) of this section on a Direct Loan are less than \$30 a month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may at its option and if it has so provided in the note evidencing the loan, require a student borrower to make such payments of principal and interest at a monthly rate of not more than \$30. (ii) If a borrower has obtained Direct Loans from more than one institution and if the monthly

repayment amounts of principal and interest are less than the equivalent of \$30 per month, and only one institution exercises the \$30 minimum monthly repayment option, the institution which exercises the option shall receive the difference between \$30 and the monthly repayment rate of principal and interest owed to the other institution. (iii) If a borrower has obtained Direct Loans from more than one institution and if the monthly repayment amounts of principal and interest are less than the equivalent of \$30 per month and each of the institutions exercises the \$30 minimum monthly repayment option, such \$30 minimum repayment shall be divided among such institutions in proportion to the total amount of principal advanced by each of the institutions.

(f) *Penalty charges.* An institution may provide in the note evidencing a loan for the assessment of a charge for the failure of the borrower to pay all or any part of an installment when due, or to file timely and satisfactory evidence of an entitlement to deferment benefits under § 144.34 or cancellation benefits under subpart D of this part. The amount of any such charge may not exceed:

(1) In the case of a loan which is repayable in monthly installments, \$1 for the first month or part thereof by which each such installment or evidence is late and \$2 for each such month or part thereof thereafter; or

(2) In the case of a loan which is repayable in bimonthly or quarterly installments \$3 and \$6 respectively for each such interval or part thereof by which each such installment or evidence is late and for each such bimonthly or quarterly period or part thereafter.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) *Security and endorsement.* The note evidencing a loan shall provide that the loan shall be made without security and without endorsement, except that security or endorsement may be required if the borrower is a minor and if under applicable State law a note executed by him would not create a binding obligation.

(20 U.S.C. 425 and 1087dd)

(h) *Assignment of notes.* The note evidencing a loan shall provide that the note may not be assigned except to the United States (or to a party specifically approved by the Commissioner), or to another institution to which the borrower transfers which is participating in the program, or if not so participating, is eligible to do so and is approved by the Commissioner for receipt of the assignment of such notes.

(20 U.S.C. 1087cc-dd)

(i) *Acceleration.* The note evidencing a loan shall provide that in the event of a failure by the borrower to make a scheduled repayment of any of the installments due on the note, the entire unpaid indebtedness, including interest due and accrued thereon and any penalty charges assessed pursuant to paragraph (f) of this section shall, at the option of the institution, become immediately due and payable.

(j) *Costs of collection.* The note evidencing a loan may, at the option of the institution, provide that the borrower shall be liable for all attorneys' fees and other costs and charges necessary for the collection of any repayment installment not paid when due.

(20 U.S.C. 425 and 1087dd)

§ 144.33 Minimum rate of repayment if the borrower received both Defense and Direct Loans.

(a) The provisions of this section shall apply to the repayment of loans by a borrower who has received both Defense and Direct Loans.

(b) If the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is at least \$30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may not exercise the option provided in either promissory note to increase the minimum monthly repayment amount even though the amount to be repaid by the borrower on his Defense Loans is less than the equivalent of \$15 per month or the amount to be repaid on his Direct Loans is less than the equivalent of \$30 per month.

(c) If the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is less than \$30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), the institution may not exercise the option provided in either promissory note to increase the minimum monthly repayment amount of principal and interest in such a fashion as to require a monthly repayment greater than \$30 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis).

(d) If (1) the sum of the monthly repayment amounts of principal and interest that a borrower would otherwise be required to repay on his Defense and Direct Loans pursuant to § 144.32(c) is less than \$30 (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), (2) the amount otherwise required to be repaid on the Defense Loan pursuant to § 144.32(c) is less than \$15 per month (or the equivalent amount for loans repaid on a bi-monthly or quarterly basis), and (3) the institution exercises its option for a minimum monthly repayment as provided in § 144.32(e) under one or both loans, no more

than \$15 (or the equivalent amount for loans paid on a bi-monthly or quarterly basis) may be attributed to the Defense Loan and that \$15 may be attributed to the Defense Loan only if the institution exercises its minimum repayment option on the Defense Loan.

(20 U.S.C. 425 and 1087dd; Section 137d of Pub. L. 92-318)

§ 144.34 Deferral of repayment.

(a) The note evidencing a loan shall provide that installments of principal need not be paid and interest shall not accrue on the loan during any period (1) in which the borrower is carrying at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal full-time academic work load as determined by the institution; (2) not in excess of three years during which the borrower is a member of the Armed Forces of the United States; (3) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act; or (4) not in excess of three years during which the borrower is a VISTA volunteer under Title I—Part A of the Domestic Service Act of 1973 Pub. L. 93-113, (formerly Title VIII of the Economic Opportunity Act of 1964). Any such periods shall not be included in determining the 10 year repayment period specified in § 144.32(c).

(b) *Extraordinary circumstances.* If a student who has borrowed from a Fund is unable, due to extraordinary circumstances such as prolonged illness or unemployment, to make a payment when due in accordance with his repayment plan, he may apply to the institution to whose Fund he is indebted for revision of his schedule of repayment. The institution may then revise the borrower's repayment plan except that where the action taken by the institution would involve an extension of the repayment period provided for in § 144.32(c), such action must first be approved by the Commissioner. Interest, however, shall continue to accrue.

(c) (1) If an institution elects the minimum monthly repayment rate set forth in § 144.32(e) with regard to a borrower, and the borrower is unable due to extraordinary circumstances such as prolonged illness or unemployment, to make a payment when due, the institution may, upon application of the borrower, defer the borrower's repayments or revise his repayment schedule for a period of not more than one year. If, at the end of such a period, the borrower is still unable to repay his loan at the rate of \$30 per month, the institution may, upon reevaluation of the borrower's financial situation, defer or revise the borrower's repayment schedule for another period of not more than one year. Interest, however, continues to accrue.

(2) The institution may not grant the relief described in subparagraph (1) of this section if the revision or deferment

will result in a repayment period longer than the one provided in § 144.32(c).

(d) *Less than half-time attendance.* For Defense Loans, the institution may provide that installments need not be paid during any period or periods, aggregating not in excess of three years, during which the borrower is enrolled and in attendance as less than a half-time student at an institution of higher education taking courses which are creditable toward a degree. The institution may also provide that any such period will not be included in determining the 10-year period during which the repayment must be completed, but interest shall continue to accrue during any such period.

(20 U.S.C. 425 and 1087dd)

**§ 144.35 Postponement of loan repayments in anticipation of cancellation.**

(a) An institution shall postpone loan repayments for a twelve month period if the borrower

(1) Will be teaching or providing other services which would enable him to have a portion of his loan cancelled and

(2) Has submitted a statement signed by a responsible official of the military, agency, school or institution employing the borrower that the borrower will be so employed. Such a statement should include the borrower's job description, the period of employment, and the full-time or part-time nature of the employment.

(b) If a borrower has received both Defense loans and Direct loans and he is eligible for cancellation benefits on only one of those loans, only the loan repayments due on the loan for which cancellation is available may be postponed.

(20 U.S.C. 425 and 1087dd-ee)

**§ 144.36 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.**

(a) *Minimum monthly repayment rate.* Notwithstanding the provisions of §§ 144.32(e) or 144.33 if (1) a borrower has received Defense Loans or Direct Loans or both and the notes evidencing such loans include a minimum monthly repayment provision, (2) the institution postpones the borrower's loan repayments under one or both loans pursuant to § 144.35, and (3) the borrower receives a partial cancellation on one or both of such loans for that period, the institution may not exercise the minimum monthly repayment provision in the note or notes which are subject to partial cancellation for the period covered by the postponement.

(b) If a borrower has received both Defense and Direct Loans and is eligible to have only one of those loans cancelled, the amount due on the loan not being cancelled shall be at the rate established pursuant to § 144.32(c) or (e), whichever is applicable.

(20 U.S.C. 425 and 1087dd-ee)

**Subpart C—Loan Collection—Due Diligence**

**§ 144.41 General.**

Each institution at which a Fund is established shall exercise due diligence as described in this subpart in the collection of the amounts due and payable to its Fund. In the exercise of such responsibility each institution must consistently utilize extensive and forceful collection practices. In particular, an institution shall:

(a) Provide to each borrower, not later than the time when he signs his promissory note, full disclosure of his rights and obligations thereunder;

(b) (1) Conduct an exit interview as described in § 144.42 with each borrower prior to his leaving the institution and provide the borrower at that time with a copy of his repayment schedule specifying the total amount of the loan and the dates and amounts of installments as they become due;

(2) If a borrower leaves the institution without notice, the institution shall mail the borrower a copy of his note and 2 copies of his repayment schedule and shall request the borrower to sign and return one of the copies of the repayment schedule.

(c) Maintain a written record of the exit interview, including a repayment schedule signed by the borrower which shall be made a part of the borrower's file;

(d) Maintain contact with the borrower after his leaving the institution in order to facilitate billing and in order to keep him informed on a timely basis of all changes in the program affecting his rights and obligations.

(20 U.S.C. 1087cc)

**§ 144.42 Contact with the borrower prior to repayment period.**

(a) *Coordination of institutional offices.* Each institution shall provide for the exchange of information among all appropriate institutional offices, e.g., the registrar, student financial aid, business, and alumni offices in order to determine (1) the approximate time a borrower will graduate in order that an exit interview may be conducted, or (2) whether a student has left school without proper notice so that it may mail the borrower required information.

(b) *Exit interview.* (1) Each institution shall, if possible, conduct an exit interview with each borrower prior to the time the borrower leaves the institution. The exit interview shall be conducted on an individual basis, except that, if individual interviews are not feasible, the institution may conduct group exit interviews.

(2) During the exit interview the institution shall provide the borrower with a detailed explanation of his obligations and rights. It shall advise the borrower: (i) Of the fact that he has received a loan which must be repaid on a timely basis as called for in his repayment schedule, (ii) of his responsibility to in-

form the institution immediately of any change of address, (iii) of the full amount of his loan including the interest rate, (iv) of the date and amount when the first payment becomes due, (v) of his responsibility to contact the institution prior to the due date of any installment if payment cannot be made for any reason, (vi) of his rights to deferment pursuant to § 144.34, postponement pursuant to § 144.35, and/or cancellation pursuant to § 144.51 through § 144.56 as well as his responsibility to submit timely certification of such right to the deferment, postponement, and/or cancellation, (vii) of his right to accelerate loan repayments without penalty, (viii) of any optional features which the institution has inserted in its note including the minimum monthly repayment provision pursuant to § 144.32(e), total costs of collection chargeable to the borrower pursuant to § 144.32(j), and penalty charges pursuant to § 144.32(f).

(c) The institution shall contact each borrower no less than three times during the borrower's 9 month grace period as follows: (1) 90 days into the grace period the institution shall transmit to the borrower in writing the information described in paragraph (b) (2) of this section and such other information as is necessary to satisfy Truth in Lending Act regulations; (2) 180 days into the grace period the institution shall notify the borrower of the date of expiration of the borrower's grace period; and (3) no less than 30 days preceding the due date of the first repayment installment the institution shall notify the borrower of the date when his first payment becomes due and of the amount of principal and interest due at that time.

(d) If the institution finds that a borrower's address has changed, it shall implement the procedures set forth in § 144.43(a) (4) in order to secure the borrower's correct address.

(20 U.S.C. 425 and 1087cc)

**§ 144.43 Billing procedures.**

(a) Each institution shall establish and maintain regular billing and follow-up procedures during the period in which any outstanding balance remains unpaid, including:

(1) The sending of:

(i) A letter of notice and a statement of account to each borrower no later than 30 days preceding the date on which the first repayment installment is due;

(ii) A statement of account to each borrower no fewer than 10 days preceding the due date of each payment subsequent to the first payment, unless a coupon system is established;

(iii) When any payment is not received within 15 days of the due date, a telephoned or written demand to the borrower for payment followed by two more such demands spaced 30 days apart if no response to the initial demand is received;

(2) The maintenance of a monthly list of payments in arrears with respect to loans not paid when due;

(3) Other procedures for effecting prompt and regular repayment including personal or telephonic contact where possible;

(4) In the case of a borrower whose address is no longer known, which may be evidenced by return of mail, performance of a thorough search of all reasonably accessible information which may lead to the borrower's current address, including records checks in all appropriate institutional offices, checks of the telephone directory or information operator in the city or town of the borrower's last known address, long distance phone calls to the borrower if a phone number has been obtained and the use of the Office of Education's skip-tracing service, which will be provided free of charge to the institution.

(b) Costs incurred by the institution in carrying out the activities enumerated in paragraph (a) of this section shall be considered routine administrative expenses which may not be charged to the Fund, except for the costs of long distance phone calls to the borrower described in paragraphs (a) (3) and (a) (4) of this section, which may, in accordance with § 144.46, be considered other collection costs chargeable to the Fund.

(20 U.S.C. 424 and 1087cc)

§ 144.44 Skip-tracing activities.

(a) If an institution is still unable to locate a borrower, in spite of its efforts pursuant to § 144.43(a) (4), it shall engage the services of a commercial skip tracing organization or perform equivalent skip tracing activities with its own personnel.

(b) If the borrower's address is located as a result of the activities described in paragraph (a) of this section, the institution shall immediately contact the borrower for the purpose of collecting amounts past due.

(20 U.S.C. 424 and 1087cc)

§ 144.45 Collection procedures.

(a) If an institution is still unable to obtain payment from a borrower after performing all of the activities set forth in §§ 144.43 and 144.44, it shall utilize the services of a collection agency or perform such collection activities with its own personnel or shall resort to litigation.

(b) If a collection agency is used it must be bonded in an amount to cover those particular assets of the Fund which are under the control of the agency at any particular time.

(c) Notwithstanding the provisions of paragraph (a) of this section, if the amount of principal and interest outstanding on a loan is not more than \$2, the institution may write-off that amount and need not take any further collection action with regard to that loan.

(20 U.S.C. 424 and 1087cc)

§ 144.46 Other collection costs—litigation costs.

(a) Reasonable costs incurred in carrying out the activities described in

§§ 144.44(a) and 144.45 and the costs of long distance calls incurred in carrying out § 144.43 (a) (3) and (a) (4) and § 144.44(b) shall be considered other collection costs and may be charged to the Fund, except that any collection costs paid by the borrower may not be charged to the Fund. For audit purposes, such costs must be supported by appropriate financial statements (e.g. telephone bills and collection agency bills). The statement of the collection agency shall indicate specific amounts collected and charges retained.

(b) If an institution elects to perform its own collections, rather than using a collection agency, its actual costs of collection may be considered an other collection cost and charged to the Fund, so long as such costs do not exceed the costs that would have been permitted under paragraph (a) of this section if the institution had used a commercial collection agency.

(c) Reasonable litigation costs incurred in carrying out this subpart may be charged to the Fund.

(20 U.S.C. 424 and 1087cc)

§ 144.47 Utilization of fiscal agent.

(a) If an institution utilizes a billing service, collection agency or any other type of fiscal agent in carrying out its functions under this part, the function of such service or agency must be limited solely to the performance of ministerial acts. The ultimate responsibility of the institution to make determinations relative to the making and collection of loans and decisions relative to cancellation and deferment of loans cannot be delegated.

(b) If a billing service is used to carry out the functions pursuant to § 144.43, the billing service may not deduct its fee from the funds it receives from borrowers.

(20 U.S.C. 424 and 1087cc)

§ 144.48 Use of commonly owned billing service and collection agency prohibited.

If in carrying out the activities required under § 144.43 an institution uses a commercial billing service, it may not utilize a collection agency pursuant to § 144.45 which owns or controls, or is owned or controlled by, the billing service or which is owned and controlled by a corporation, partnership, association or individual which also owns or controls the billing service.

(20 U.S.C. 1087cc)

§ 144.49 Bankruptcy of borrower.

An institution shall refrain from collection activity with respect to a loan in the event the borrower is adjudicated a bankrupt and such loan has been discharged. However, no such loan shall be written off until an official notice of the adjudication has been received by the institution. Such notification must be maintained in the file of that borrower to support the writeoff entry. If the institution receives any payment from a borrower subsequent to his adjudication

as a bankrupt, it shall deposit such payment in its Fund.

(20 U.S.C. 424, 1087cc)

Subpart D—Loan Cancellation

§ 144.51 Special definitions.

For purposes of this subpart:

(a) "Academic year or its equivalent" means

(1) With respect to elementary and secondary school teachers and teachers of handicapped children in a public or nonprofit elementary or secondary school system, a school year or two complete and consecutive half years from different school years, excluding summer sessions, falling generally within a 12 month period; and

(2) With respect to teachers in institutions of higher education, the equivalent of two semesters, two trimesters or three quarters generally falling within a 12 month period.

(b) "Elementary school" means a school which provides elementary education including education below grade 1, as determined under State law, or, if such a school is not in any State, as determined by the Commissioner.

(c) "Full-time teacher" means a person professionally employed on a full-time basis by, and to carry out the curriculum of, (1) an elementary school or secondary school, or (2) several elementary or secondary schools within the same local school district or local educational agency, or (3) a public or nonprofit private elementary or secondary school system with regard to the teaching of handicapped children, or (4) an institution of higher education, or (5) a consortium of institutions of higher education. This term includes persons engaged in classroom instruction and also includes persons otherwise engaged in a professional capacity in providing direct and personal services to students, which services have the objective of furthering the educational development of such students enrolled in such school(s) or institution(s).

This term, with respect to a teacher in an institution of higher education, does not include persons engaged in teaching any program of elementary or secondary education unless the program is specifically designed to prepare high school graduates for a program of postsecondary education.

(d) "Handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or otherwise health-impaired who by reason thereof require special education and related services.

(e) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school



districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(f) "Secondary school" means a school which provides secondary education as determined under State law, or if such school is not in any State, as determined by the Commissioner, except that such education does not include any education provided beyond grade 12.

(g) "State educational agency" means the State board of education or other agency or officer primarily responsible in a State for the supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 425, 1087ee, 1141)

#### § 144.52 Teacher cancellation—Defense Loans.

The following provisions apply to Defense Loans:

(a) (1) Except as provided for in paragraphs (b) and (c) of this section, a borrower is entitled to have up to 50 percent of any loan plus the interest thereon cancelled for services as a full-time teacher in (i) a public or other nonprofit elementary or secondary school in a State, (ii) an institution of higher education or (iii) an elementary or secondary school overseas of the Armed Forces of the United States.

(2) Loans under this paragraph will be cancelled at the rate of 10 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of such teaching service.

(b) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for services as a full-time teacher in a public or other nonprofit elementary or secondary school (i) which is in the school district of a local educational agency which is eligible in that year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965, and (ii) which, for the purpose of this subparagraph and for that year, has been determined by the Commissioner after consultation with the State educational agency of the State in which the school is located, to be a school in which there is a high concentration of students from low-income families; however, that determination shall not be made with respect to more than 25 percent of the total of the public and other nonprofit elementary and secondary schools in any State for any one year unless all of the schools so determined are schools in which the enrollment of children described in section 103(c) (1) (A), (B), or (C), (formerly section 103(a) (2) (A), (B), or (C)) of Title I of the Elementary and Secondary Education Act of 1965, using a low-income factor of \$3,000 exceeds 50 percent of the total enrollment of that school. For purposes of this para-

graph low income families are those families whose adjusted gross income is not more than \$3,000.

(2) Loans under this paragraph will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of teaching service.

(3) The Commissioner's determination in paragraph (b) (1) of this section will be based upon a ranking of such schools submitted by the State educational agency for the State in which the schools are located. Such schools shall be ranked on the basis of objective standards and methods approved by the Commissioner which take into account the numbers and percentages of students from low-income families in attendance in such schools. For each school year the Commissioner will make available to each institution of higher education participating in the program a list of schools which have been determined to be those with a high concentration of students from low-income families.

(4) Cancellation as described in this paragraph is only available for teaching service commencing with the 1966-67 academic year.

(c) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(2) Loans under this paragraph will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete academic year or its equivalent of such teaching service.

(3) Cancellation as described in this paragraph is only available for teaching service commencing with the 1967-68 academic year.

(20 U.S.C. 425(b) (3))

#### § 144.53 Teacher cancellation - Direct Loans.

The following provisions apply to Direct Loans:

(a) (1) A borrower is entitled to have the entire amount of any loan plus the interest thereon cancelled for services as a full-time teacher in a public or other nonprofit elementary or secondary school (i) which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965 and (ii) which for the purpose of this paragraph and for that year has been determined by the Commissioner after consultation with the State educational agency of the State in which the school is located, to be a school in which the enrollment of children described in section 103(c) (1) (A), (B), or (C) (formerly section 103(a) (2) (A), (B), or (C)) of Title I of the Elementary and Secondary Education Act of 1965, using a low-income factor of \$3,000, exceeds 30 percent of the total enrollment of that school, except that such determination shall not be made with respect to more than 50 percent of the total number of

schools in that State receiving assistance under such Title I.

(2) If more than 50 percent of the schools in a State receive assistance under Title I of the Elementary and Secondary Education Act of 1965 and also satisfy the conditions specified in subparagraph (1) of this paragraph concerning enrollment of children, the Commissioner will list schools for which cancellation is permitted under this paragraph from among those eligible schools based upon a ranking of such schools submitted by the State educational agency for the State in which the schools are located. Such schools shall be ranked on the basis of objective standards and methods approved by the Commissioner which take into account the number and percentages of students described in subparagraph (1) of this paragraph in such schools. With respect to each school year, the Commissioner will make available to each institution participating in the program a list of schools for which cancellation for teaching service is permitted under this paragraph.

(b) A borrower is entitled to have his entire loan cancelled for service as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system.

(c) Borrowers qualifying for cancellation under paragraphs (a) and (b) of this section will have their loans cancelled at the following rates: (1) 15 percent of the total amount of such loans plus the interest thereon for each of the first and second complete academic years or their equivalent of such teaching services, (2) 20 percent of the total amount of such loans plus the interest thereon for each of the third and fourth complete academic years or their equivalent of such teaching service, and (3) 30 percent of the total amount of such loans plus the interest thereon for the fifth complete academic year or its equivalent of such teaching service.

(20 U.S.C. 1087ee)

#### § 144.54 Head Start cancellation.

(a) A borrower whose loan was made under this part after June 30, 1972 is entitled to have the entire amount of any such loan plus the interest thereon cancelled for services as a full-time staff member in a preschool program carried out under section 222(a) (1) of the Economic Opportunity Act of 1964 (Head Start) if that program is operated for a period which is comparable to a full school year in the locality; provided, however, that the borrower's salary as a full-time staff member is not more than the salary of a comparable employee of the local educational agency in the area served by the preschool program. Loans under this section will be cancelled at the rate of 15 percent of the total amount of such loans plus the interest thereon for each complete school year or its equivalent of such service.

(b) For purposes of paragraph (a) of this section "Full-time staff member" means any person regularly employed in a professional capacity on a full-time

basis in carrying out the educational component of a Head Start program.

(20 U.S.C. 1087ee)

**§ 144.55 Military cancellation.**

(a) (1) A borrower is entitled to have up to 50 percent of any loan made under this part after April 13, 1970 but before July 1, 1972 plus the interest thereon cancelled for services after June 30, 1970 as a member of the Armed Forces of the United States.

(2) Loans under this paragraph will be cancelled at the rate of 12½ percent of the total amount of such loans plus the interest thereon for each year of consecutive service as a member of the Armed Forces.

(b) (1) A borrower is entitled to have up to 50 percent of any loan made under this part after June 30, 1972 plus the interest thereon cancelled for service as a member of the Armed Forces of the United States in an area that qualifies for special pay under section 310 of Title 37 of the United States Code.

(2) Loans under this paragraph will be cancelled at the rate of 12½ percent of the total amount of such loans plus the interest thereon for each year of qualifying service.

(c) For purposes of this section, a borrower's entitlement to deferment of repayment pursuant to § 144.34 shall be deemed to run concurrently with any periods during which the cancellation entitlement has been granted.

(d) For purposes of this section and § 144.34, "Member of the Armed Forces of the United States" means an individual who is on full-time active duty in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

(20 U.S.C. 425(b) (3), 20 U.S.C. 1087ee)

**§ 144.56 Cancellation for death or disability.**

(a) *Death.* Any loan made under this part and the interest thereon shall be cancelled upon the death of the borrower. A determination as to whether or not such cancellation is warranted shall be made by the institution to whose fund the borrower is indebted on the basis of a certificate of death or such other official proof as is conclusive under State law.

(b) *Permanent and total disability.* Any loan made under this part and the interest thereon shall be cancelled if the borrower becomes permanently and totally disabled after receiving his loan. A determination as to whether or not a borrower is entitled to such cancellation shall be made by the institution to whose Fund the borrower is indebted on the basis of medical evidence supplied by the borrower or his representative, subject to the approval of the Commissioner where such entitlement is found.

(c) For purposes of this section "Permanent and total disability" means the inability to engage in any gainful activity because of a medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death.

(d) *No Federal reimbursement.* No Federal reimbursement shall be made to an institution for cancellation of loans under this section.

(e) This section applies retroactively to all Defense and Direct Loans whenever made.

(20 U.S.C. 425 and 1087dd and section 130 (g)(2) of the Education Amendments of 1976, Pub. L. 94—.)

**§ 144.57 Responsibility for determination of cancellation entitlement.**

The determination as to whether or not a borrower is entitled to have any portion of his loan cancelled under §§ 144.52-144.55 shall be made by the institution to whose Fund such loan is payable upon receipt and approval of an application for cancellation from such student, to be provided in a form specified by such institution.

(20 U.S.C. 425, 1087ee)

**§ 144.58 Cancellation provision not retroactive—No refund.**

(a) No portion of any loan made under this part shall be cancelled for services performed by a borrower prior to the date of execution of his loan note.

(b) Nothing in this subpart shall be construed to authorize refunding of any repayment of a loan, except that, where an overpayment is made by a borrower as a result of an institutional error, a refund will be allowed.

(20 U.S.C. 425, 1087ee)

**§ 144.59 Reimbursement by the Commissioner of amounts cancelled.**

(a) With respect to loans made prior to July 1, 1972, the Commissioner will pay to each institution for each fiscal year an amount which bears the same ratio to the interest which has been prevented from accruing and the portion of the principal which has been cancelled on student loans pursuant to §§ 144.52 and 144.55(a) as the total amount of the institution's capital contributions to its Fund under this part bears to the sum of the institution's capital contributions and the Federal capital contributions to such Fund.

(20 U.S.C. 428)

(b) With respect to loans made after June 30, 1972, the Commissioner will pay to each institution, for deposit into its Fund, for each fiscal year, an amount equal to the amount of principal and interest thereon which has been cancelled from its student loan Fund for such year pursuant to §§ 144.53, 144.54, and 144.55(b).

(20 U.S.C. 1087ee)

**Subpart E—Loans to Institutions for Institutional Capital Contributions**

**§ 144.61 Institutional loans.**

(a) The Commissioner may make a loan to an institution with which he has an agreement pursuant to § 144.8 for the purpose of assisting that institution in financing its "institutional capital contribution" to its Student Loan Fund if he determines that the institution is un-

able to secure such funds from non-Federal sources upon terms and conditions which are reasonable and consistent with the purposes of this part.

(b) Loans made to institutions under this section shall bear interest at a rate which the Commissioner determines to be adequate to cover:

(1) The cost of the funds to the Treasury as determined by the Secretary of the Treasury taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Commissioner under this section;

(2) The cost of administering this section; and

(3) Probable loss.

(c) Loans made under this section shall mature within such periods as may be determined by the Commissioner but such period may not exceed fifteen (15) years.

(20 U.S.C. 427)

**§ 144.62 Application.**

(a) Any institution requesting a loan under this subpart shall file an application with the Commissioner before the closing date for such application established by the Commissioner. Such application shall contain the following information and shall be in such form and contain such other information as the Commissioner shall from time to time prescribe:

(1) The amount of institutional capital contribution needed to match the institution's Federal capital contribution for the academic year;

(2) The steps taken by the institution to obtain loan funds from non-Federal sources including the names of and addresses of the lending institutions contacted;

(3) A description of the best terms available to the institution from non-Federal sources for borrowing such funds, including the interest rate, duration of repayment, and the collateral or security required; and

(4) If non-Federal sources were not contacted, an explanation as to why non-Federal sources were not contacted.

(b) The application shall contain the name of the official authorized to submit the application and the name of the individual or official who will be responsible for carrying out the program. Unless otherwise indicated in the application, the former individual or official will be deemed to be the individual or official to whom communications shall be directed, the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds, and the individual or official who shall have ultimate responsibility for the accounting of such Federal funds.

(20 U.S.C. 427)

**§ 144.63 Allocation of Federal institutional loans.**

(a) If the amount of funds available to make institutional loans under this subpart for any fiscal year is less than the amount approved for institutions for

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that year, the Commissioner will allocate such available funds among all such approved requests in the same ratio, as the amount of each approved request bears to the sums of the amounts of all such requests.

(b) If an institution fails to accept all of the funds that would otherwise be lent to it, the Commissioner shall reallocate such unaccepted funds to other institutions if the amount of such funds is sufficient to increase significantly the size of the loans to such other institutions.

(20 U.S.C. 427)

**§ 144.64 Federal institutional loan agreements.**

An institutional capital contribution loan shall be evidenced by a promissory note executed by an official who is duly authorized to execute such notes on behalf of the borrowing institution. The note shall contain such provisions as will effectuate the carrying out of the purposes of this subpart.

(20 U.S.C. 427)

**APPENDIX A**

**ALLOTMENT OF FUNDS TO STATES FOR FISCAL YEAR 1972**

Alabama	\$4,329,888
Alaska	143,019
Arizona	3,025,951
Arkansas	2,457,919
California	30,963,291
Colorado	4,163,216
Connecticut	3,790,537
Delaware	663,468
District of Columbia	2,167,676
Florida	7,872,683
Georgia	4,919,990
Hawaii	1,137,046
Idaho	1,220,847
Illinois	14,264,322
Indiana	7,496,071
Iowa	5,075,628
Kansas	4,135,849
Kentucky	4,117,819
Louisiana	4,863,504
Maine	1,175,287
Maryland	4,453,186
Massachusetts	10,510,277
Michigan	12,724,387
Minnesota	6,340,123
Mississippi	3,292,103
Missouri	6,686,416
Montana	1,233,084
Nebraska	2,719,587
Nevada	443,641
New Hampshire	1,228,222
New Jersey	5,036,568
New Mexico	1,570,800
New York	23,755,497
North Carolina	6,796,494
North Dakota	1,339,610
Ohio	13,598,996
Oklahoma	4,489,951
Oregon	3,944,044
Pennsylvania	14,293,878
Rhode Island	1,501,312
South Carolina	2,631,093
South Dakota	1,322,457
Tennessee	5,330,199
Texas	15,388,640
Utah	2,976,511
Vermont	901,213
Virginia	4,928,348
Washington	5,811,589
West Virginia	2,695,336
Wisconsin	7,300,992
Wyoming	578,575

Canal Zone	\$19,503
Guam	50,368
Puerto Rico	2,114,959
Virgin Islands	18,082

Total ----- 286,000,000

**APPENDIX B—PROMISSORY NOTE**

**NATIONAL DIRECT STUDENT LOAN PROGRAM**  
(Bracketed clause may be included at option of institution)

I, ----- promise to pay to ----- hereinafter called the Lending Institution located at -----, the sum of such amounts as may from time to time be advanced to me and endorsed in the Schedule of Advances set forth below [together with all attorney's fees and other costs and charges necessary for the collection of any amount not paid when due].

I further understand and agree that:

**GENERAL**

I. All sums advanced pursuant to this note are drawn from a fund created under Part E of Title IV of the Higher Education Act of 1965, hereinafter called the Act, and are subject to the Act and the Federal Regulations promulgated pursuant to the Act. The terms of this note shall be construed in accordance with the Act and Federal Regulations, copies of which shall be kept by the Lending Institution.

**REPAYMENT**

II. (1) Interest shall accrue from the beginning of the repayment period and shall be at the rate of 3 per centum on the unpaid balance except that no interest shall accrue during any period described in paragraph III (3).

(Bracketed clause shall be included if the institution uses paragraph II(3))

(2) [Except as provided in paragraph II (3)] Repayment of principal, together with interest thereon, shall be made over a period beginning 9 months after the date on which I cease to be at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the United States Commissioner of Education, and ending, unless paragraph III (3) applies, 10 years and 9 months after that date. I may however request that the payment period start on an earlier date. I shall repay the principal and interest over the course of the repayment period in equal monthly, bi-monthly or quarterly installments, as determined by the Lending Institution, except that, if I request, such payments shall be made in graduated installments determined in accordance with such schedules as may be approved by the Lending Institution and the Commissioner. In either case, a schedule of repayment shall be attached to and made part of this note.

(Bracketed paragraph may be included at option of institution)

{(3) If the repayment schedule that would otherwise be established in accordance with paragraph II (2) would provide for payments of principal and interest at a rate of less than \$30 per month, I shall repay the total amount of this loan plus the interest thereon at the rate of \$30 per month, which shall include repayment of principal and interest. In the event I receive or have received National Direct or Defense Student Loans from other lending institutions, I shall repay this note at a monthly rate equal to not less than the amount by which \$30 exceeds the

total monthly rate of principal and interest repaid on the other loans. A schedule of repayment shall be attached to and made part of this note. The Lending Institution may permit me to pay less than the rate of \$30 per month for a period of not more than one year where necessary to avoid hardship to me unless such an action would extend the repayment period in paragraph 2 of this article.]

III. This note is also subject to the following conditions:

**PREPAYMENT**

(1) I may at my option and without penalty prepay all or any part of the principal, plus the accrued interest thereon, at any time.

**DEFAULT**

(2) If I fail to meet a scheduled repayment of any of the installments due on this note, the entire unpaid indebtedness including interest due and accrued thereon, shall, at the option of the Lending Institution, become immediately due and payable.

**DEFERMENT**

(3) Interest shall not accrue, and installments need not be paid (A) while I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Commissioner, or (B) for a period not in excess of 3 years during which I am (1) on full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard), (2) in service as a volunteer under the Peace Corps Act, or (3) a VISTA volunteer under Title I—Part A of the Domestic Service Act of 1973, P.L. 93-113, (formerly Title VIII of the Economic Opportunity Act of 1964).

The Lending Institution may, upon my application, defer or reduce any scheduled repayments if, in the view of the Lending Institution, extraordinary circumstances such as prolonged illness or unemployment, prevent me from making such payments. However, interest shall continue to accrue.

**CANCELLATION FOR TEACHING**

(4) I am entitled to have the entire amount of this loan plus the interest thereon cancelled if I undertake service (A) as a full-time teacher in a public or other nonprofit elementary or secondary school which is in a school district of a local educational agency which is eligible for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965 and which for the purposes of this clause has been designated by the Commissioner in accordance with the provisions of Section 465(a)(2) of the Higher Education Act as a school with a high enrollment of students from low-income families, or (B) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

This loan shall be cancelled for teaching service in accordance with the following rates: 15 per centum of the total principal amount of the loan plus interest thereon shall be cancelled for the first and second complete academic years of teaching service; 20 per centum of the total principal amount plus interest thereon for the third and fourth complete academic years of such service; and 30 per centum of the total principal amount plus interest thereon for the fifth complete academic year of such service.



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HEAD START CANCELLATION

(5) I am entitled to have the entire amount of this loan plus the interest thereon cancelled if I undertake service as a full-time staff member in a preschool program carried on under Section 222(a) (1) of the Economic Opportunity Act of 1964 (Head Start) at the rate of 15 per centum of the total principal amount of the loan plus interest thereon for each complete school year or its equivalent of such service, if that Head Start program is operated for a period which is comparable to a full school year in the locality, and if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency.

MILITARY CANCELLATION

(6) If I serve as a member of the Armed Forces of the United States, up to 50 per centum of the principal amount of this loan plus the interest thereon shall be cancelled at the rate of 12½ per centum of the total principal amount of the loan plus interest thereon for each complete year of service in an area of hostilities that qualifies for special pay under Section 310 of Title 37 of the United States Code.

DEATH AND DISABILITY CANCELLATION

(7) If I should die or become permanently and totally disabled, the entire amount of this loan plus the interest thereon shall be cancelled.

ADDRESS CHANGE

(8) I am responsible for informing the Lending Institution of any change or changes in my address.

PENALTY CHARGE

(Bracketed clause may be included at option of institution)

(9) If I fail to make timely payment of all or any part of a scheduled installment, or if I am eligible for deferment or cancellation of payment (pursuant to paragraphs III (3), (4), (5), or (6)), but fail to submit timely and satisfactory evidence thereof, I promise to pay the charge assessed against me by the Lending Institution. No charge may exceed (1) where the loan is repayable in monthly installments, \$1 for the first month or part of a month by which such installment or evidence is late, and \$2 for each month or part of a month thereafter; or (2) in the case of a loan which is repayable in bimonthly or quarterly installments, \$3 and \$6, respectively, for each installment interval or part thereof by which such installment or evidence is late. If the Lending Institution elects to add the assessed charge to the outstanding principal of the loan, it shall so inform me prior to the due date of the next installment.]

ASSIGNMENT

IV. This note may be assigned by the Lending Institution only (A) to another institution upon my transfer to that institution if that institution is participating in this program (or, if not so participating, is eligible

to do so and is approved by the Commissioner for such purpose) or (B) to the United States if this note has been in default for two years. The provisions of this note that relate to the Lending Institution shall, where appropriate, relate to an assignee.

PRIOR LOANS

V. I hereby certify that I have listed below all of the National Direct Student Loans (or National Defense Student Loans) I have obtained at other institutions. If no prior loans have been received state "None."

Schedule of national direct student loans and national defense student loans at other institutions

	Amount	Date	Institution
1.....	\$		
2.....	\$		
3.....	\$		
4.....	\$		

VI. Schedule of advances.

	Amount	Date	Signature of maker
1.....	\$		
2.....	\$		
3.....	\$		
4.....	\$		

Signature \_\_\_\_\_ Date \_\_\_\_\_

19\_\_\_\_\_  
Permanent address \_\_\_\_\_  
(Street or Box Number, City, State, and Zip Code)

Caveat—This note shall be executed without security and without endorsement, except that if I am a minor and this note would not, under the law of the State in which the Lending Institution is located, create a binding obligation, either security or endorsement may be required. The Lending Institution shall supply a copy of this note to me.

Signature of endorser \_\_\_\_\_

Date \_\_\_\_\_, 19\_\_\_\_\_  
Permanent Address \_\_\_\_\_  
(Street or Box Number, City, State, and Zip Code)

APPENDIX C.—Example for computing penalty charges—6 mo.

	Jan. 2	Feb. 2	Mar. 2	Apr. 2	May 2	June 2	Total per payment
Monthly:							
1st past due.....	\$1	\$1+\$2	\$3+\$2	\$5+\$2	\$7+\$2	\$9+\$2	\$11
2d past due.....		1	1+2	3+2	5+2	7+2	9
3d past due.....			1	1+2	3+2	5+2	7
4th past due.....				1	1+2	3+2	5
5th past due.....					1	1+2	3
6th past due.....						1	1
Total, all payments.....							36
Bimonthly:							
1st past due.....	3		3+3		6+3		9
2d past due.....			3		3+3		6
3d past due.....					3		3
Total, all payments.....							18
Quarterly:							
1st past due.....	6			6+6			12
2d past due.....				6			6
Total, all payments.....							18

2. Part 176 of Title 45 of the Code of Federal Regulations is amended to read as follows:

- Sec. 176.1 Purpose.
- 176.2 Definitions.
- 176.3 Apportionment and reapportionment.
- 176.4 Allocation, reallocation, and payment of funds to institutions.
- 176.5 Institutional applications.
- 176.6 Funding criteria.
- 176.7 Application review and approval of request.
- 176.8 Institutional agreement.
- 176.9 Student eligibility.
- 176.10 Duration of student eligibility.
- 176.11 Cost of education.
- 176.12 Expected family contribution.
- 176.13 Approved need analysis systems.

- Sec. 176.14 Coordination of student financial aid programs, grant amount, and over-award.
- 176.15 Coordination with Bureau of Indian Affairs grants-in-aid.
- 176.16 Amount of grant.
- 176.17 Payment of grant.
- 176.18 Special sessions.
- 176.19 [Reserved]
- 176.20 Maintenance of effort.
- 176.21 Transfer of funds.
- 176.22 Use of funds.
- 176.23 Fiscal procedures and records.
- 176.24 Federal interest in allocated funds.
- 176.25 Termination and suspension.

Appendix A

AUTHORITY: Sec. 131(b)(1) of Title I of Pub. L. 92-318, 96 Stat. 251-255 (20 U.S.C. 1070b), unless otherwise noted.

## § 176.1 Purpose.

It is the purpose of this part to provide, through institutions of higher education, Supplemental Educational Opportunity Grants (Supplemental Grants) to assist in making available the benefits of postsecondary education to qualify students, who for lack of financial means of their own or of their families, would be unable to obtain such benefits without such a grant.

(20 U.S.C. 1070b)

## § 176.2 Definitions.

For the purposes of this part:

(a) "Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(b) "Act" means Title IV-Part A Subpart 2 of the Higher Education Act of 1965, as amended.

(c) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture or recitation or (2) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

(d) "College Work-Study Program" is a federally-supported program of part-time employment authorized by Title IV, Part C, of the Higher Education Act of 1965.

(42 U.S.C. 2751-2756)

(e) "Continuing grant" means an award of a Supplemental Educational Opportunity Grant (Supplemental Grant) to a student that does not qualify as an "initial grant" as defined in § 176.2.

(f) "Dependent student" means any student who does not qualify as a "self-supporting or independent student" as defined in § 176.2.

(g) "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 176.11 and the amount which reasonably may be expected to be made available to him by his parents for such purpose.

(h) "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 176.11.

(i) "Financial need" means the difference between a student's cost of education and his expected family contribution.

(j) "Full-time student" means a student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(20 U.S.C. 1088(c)(2))

(k) "Good standing" means, with regard to a student, that the institution in

which the student is enrolled has determined that (1) the student is eligible, in accordance with its own standards and practices, to continue in attendance at the institution, and (2) the student is making measurable progress toward the completion of his course of study

(l) "Half-time student" means a student who is carrying a half-time academic work load measured in terms of (1) the tuition and fees customarily charged for half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled; *provided, however*, That such course work and activities amount to the equivalent of a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semester, trimester, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock hours per week for institutions which utilize clock hours to measure progress. All students engaged in a program of study by correspondence which is offered as requiring at least 12 hours of preparation a week shall be considered half-time students for purposes of this part.

(20 U.S.C. 1088(c)(3))

(m) "Initial grant" means the first Supplemental Educational Opportunity Grant (Supplemental Grant) awarded to a student. Payment for the first year of a Supplemental Grant shall not be considered to be an initial grant payment if the grant was awarded for the continuing education of a student who (1) had been previously awarded a Supplemental Grant (whether or not by another institution), and (2) had received any payment of that Supplemental Grant.

(n) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) (i) is accredited by a nationally recognized accrediting agency or association, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (iii) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is

making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (iv) is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

The term "institution of higher education" also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (1), (2), (4), and (5) of this paragraph. For purposes of this part a one-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction. The term "institution of higher education" also includes any proprietary institution of higher education, as defined in § 176.2(r), which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a))

(o) "National Direct Student Loan Program" is the student loan program authorized by Title IV, Part E of the Higher Education Act of 1965.

(20 U.S.C. (1967 aa-ff))

(p) "National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22))

(q) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case such person shall be considered a parent.

(r) "Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years. For purposes of this part a six-month program of training

means a program of study, which does not include study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(8))

(s) "Self-supporting or Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.

(2) Has not received and will not receive financial assistance of more than \$600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received \$600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for a grant.

(t) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(u) "Undergraduate course of study" means a regularly prescribed curriculum for an undergraduate student at an institution of higher education.

(v) "Undergraduate student" means a student who (1) is in attendance at an institution of higher education and (2) has not earned his first baccalaureate or professional degree. A student who has not earned his first baccalaureate or professional degree and who is enrolled in a program of study at the postsecondary level which is designed to extend for more than four academic years shall not be considered as an undergraduate student in that portion of the program that involves study beyond the fourth academic year unless that program leads to a first degree and is designed to extend for a period of five academic years.

(20 U.S.C. 1070b unless otherwise noted)

**§ 176.3 Apportionment and reapportionment.**

(a) *Initial grant—apportionment.*—

(1) From 90 percent of the sums appropriated for making initial grants for the Supplemental Educational Opportunity Grant Program (Supplemental Grant Program) for any fiscal year, the Com-

missioner will apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons enrolled in all the States. If the amount so apportioned to any State is less than its allotment for initial year Educational Opportunity Grant Program grants (20 U.S.C. 1061(b)) for fiscal year 1972, additional sums will be apportioned to each such State from the remaining 10 percent of the sums appropriated for initial grants to make its apportionment for such year equal to such allotment for fiscal year 1972. (The table set forth as appendix A indicates the amounts allotted to each State for such purposes for the fiscal year ending June 30, 1972.) In the event that the funds available are insufficient to meet that level, the Commissioner will instead apportion the remaining 10 percent of the sums appropriated for initial grants so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment.

(2) The Commissioner will apportion the sums remaining for initial grants, after making the apportionments of funds specified in paragraph (a) (1) of this section, to those State(s) which received the lowest percentage of approved requests for funds for initial grants as a result of the apportionment under subparagraph (a) (1) of this section, so that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(b) *Initial grants—reapportionment.*—The amount of any State's apportionment under subsection (a) which exceeds the total amount of approved requests for funds for initial grants of the institutions of higher education in that State will be reapportioned among the remaining States in such a manner that no State will receive less than a uniform minimum percentage of its total approved requests for funds for initial grants.

(c) *Continuing grants—apportionment.*—The Commissioner will apportion the sums appropriated for continuing grants for the Supplemental Grant program among the States in such a manner so that each State will receive the same percentage of the total of its approved requests for funds for continuing grants.

(d) *Continuing grants—reapportionment.*—Any funds apportioned under paragraph (c) of this section which are later determined by the Commissioner to be in excess of the total amount required by any State for continuing grants will be reapportioned among the remaining States in such a manner as the Commissioner, pursuant to published criteria, determines will best achieve the purpose of the program.

(20 U.S.C. 1070b-3)

**§ 176.4 Allocation, reallocation and payment of funds to institutions.**

(a) *Allocation of funds to institutions.*—When funds available for distribution among the institutions within a State for initial grants are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State. Similarly when funds available for distribution among the institutions within a State for continuing grants are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reapportionments, bears to the total approved requests for that State.

(b) *Reallocation of funds.* Funds allocated to an institution for initial grants which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for such funds, such funds may be reapportioned in accordance with § 176.3 for use in other States. Similarly funds allocated to an institution for continuing grants which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State or, if no institution in that State has a need for such funds, such funds may be reapportioned in accordance with § 176.3 for use in other States.

(c) *Payment of funds.* Funds will be made available for both initial and continuing grants for a specific period of time as determined by the Commissioner and may be payable in advance or by way of reimbursement on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(20 U.S.C. 1070b-3)

**§ 176.5 Institutional applications.**

(a) An institution that wishes to participate in the Supplemental Grants Program shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such application shall contain the following information, except as provided in paragraph (c), and shall be in such form and contain such other information as the Commissioner may from time to time prescribe:

(1) The institution's requests for Federal student financial aid funds under this part, the College Work-Study Program, the National Direct Student Loan Program, and its anticipated disbursements under the Basic Educational Opportunity Grants Program;

(2) The institution's anticipated enrollment for the forthcoming academic year;

(3) The anticipated number of enrolled students eligible for initial and continuing grants;

(4) The institution's average cost of education, including a justification of per student costs in excess of \$175 for books or \$450 for personal expenses for an academic year;

(5) An estimate of the average amount which reasonably may be expected to be made available by the parents of students at the institution who are expected to be eligible for such grants;

(6) The anticipated average grants;

(7) The amount of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent academic year for which information is available;

(8) The anticipated amount of other financial assistance available to students with financial need at the institution, such as State scholarships, Veterans Benefits, and off-campus employment;

(9) The average unmet need per student; if the average amount of unmet need exceeds \$200, the explanation for this situation; and

(10) The qualifications of the professional personnel who will be administering the Supplemental Grants Program.

(b) The application shall be signed by the official authorized to submit the application and by the institution's Director of Student Financial Aid, and shall contain the name of the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds.

(c) An institution may file an application omitting the information required by subparagraphs (4), (7), (10), and

(11) of paragraph (a) if (i) it has received an allocation under this part for at least the two academic years prior to the academic year for which assistance is requested, (ii) it is requesting not more than 110% of its approved request for the previous academic year, and (iii) it has filed an application containing the information required by subparagraphs (a) (4), (7), (10), and (11) for one of the three preceding academic years.

(20 U.S.C. 1070b-3(b))

#### § 176.6 Funding criteria.

Institutional applications for funds under this part will be reviewed in accordance with the following criteria:

(a) The reasonableness of the institution's total request for Federal student financial aid funds under this part (i) in light of its requests under the College Work-Study Program and the National Direct Student Loan Program, and (ii) in relation to the institution's anticipated enrollment, its average cost of education, and the average expected family contribution of its students eligible under those programs;

(b) The reasonableness of the institution's projections of its anticipated en-

rollment and of the average cost of education and the average expected family contribution of its students eligible under those programs;

(c) The reasonableness of the anticipated number of students eligible for initial and continuing grants, in view of the institution's anticipated enrollment;

(d) The reasonableness of the amount of the average grant anticipated in relation to the average need per student at the institution, after taking into account other available student financial aid resources;

(e) The extent to which the institution has effectively utilized Federal financial aid funds allocated in previous years;

(f) The nature of the institution's demonstrated commitment to enroll students with exceptional financial need;

(g) The adequacy of the reasons provided by the institution pursuant to § 176.5(a) (4) and (9); and

(h) The extent to which the institution has effectively administered or made provision for the effective administration of the program, including effective coordination with institutional and other programs of student financial aid. In making this evaluation, consideration will be given to the adequacy of the qualifications and experience of the personnel designated by the institution to administer the program.

(20 U.S.C. 1070b-3)

#### § 176.7 Application review and approval of request.

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education, to review applications submitted under this part by institutions situated in those regions. The review panel shall evaluate each institution's request for funds in accordance with the criteria set forth in § 176.6 and shall recommend an amount which it deems appropriate. (2) No panelist shall participate in the consideration of any application from his own institution or any application from any other institution which he has prepared or assisted in preparing or in which he has any personal financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel pursuant to paragraph (a) of this section. If the amount recommended is less than the institution's request, the reasons for such a reduction will be forwarded to the institution. The institution shall notify the regional office of the Office of Education serving the area in which the institution is located of any arithmetic or other technical errors with regard to the panel recommendation. The regional office will adjust the recommendation to correct such errors.

(c) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors, it shall submit a written request for such review to the regional office of the Office of Education serving the area in which the institution is located within

such time as may be specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review such a request and will notify the institution in writing of its decision and the reasons therefor.

(d) (1) If an institution wishes a review of the regional office recommendation made pursuant to paragraph (c) of this section, it may request a review by a national review panel. Such a national review panel shall consist of institutional student financial aid officers from each of the regions served by the Office of Education and personnel of the Office of Education.

(2) A request for national review shall be submitted in writing by the institution to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review such requests and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(20 U.S.C. 1070b-3)

#### § 176.8 Institutional agreement.

An institution of higher education which desires to participate in the Supplemental Grants Program shall enter into an agreement with the Commissioner for that purpose. Such agreement shall:

(a) Provide that funds received by the institution under this part will be used solely for the purposes specified in, and in accordance with, the provisions of this part;

(b) Provide that, in determining whether a student meets the requirements of exceptional financial need, the institution will consider the source of such student's income and that of any individual or individuals upon whom the student relies primarily for support and will make an appropriate review of the assets of the student and of such individuals;

(c) Provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and encourage them to continue their education beyond secondary school through programs and activities such as (1) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating such students to complete secondary school and pursue post-secondary school educational opportunities, and (2) making, to the extent feasible, conditional commitments for

student financial aid to qualified secondary school students who, but for such grants, would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

(d) Specify that the institution must make Supplemental Grants under this part reasonably available (to the extent of funds available) to all eligible students at the institution;

(e) Specify that the institution will comply with the provisions of § 176.20 relating to maintenance of effort and § 176.22 relating to costs of administration; and

(f) Include such other provisions as may be necessary in light of special and unusual circumstances to protect the financial interest of the United States and promote the purposes of this part.

(20 U.S.C. 1070b-2)

§ 176.9 Student eligibility.

(a) A student is eligible for a grant under this part if such student:

(1) is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territories of the Pacific Islands;

(2) has been accepted for enrollment as at least a half-time undergraduate student at an institution of higher education or, in the case of an undergraduate student already attending such institution, is in good standing and is enrolled on at least a half-time basis at such institution;

(3) shows evidence of academic or creative promise and capability of maintaining good standing in his course of study;

(4) is of exceptional financial need as determined in accordance with paragraph (b) of this section; and

(5) would not, but for a Supplemental Grant, be financially able to pursue a course of study at such institution.

(b) A student participating in a program of study abroad will be considered to be enrolled in his "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution and (2) the student's academic performance during the program of study abroad becomes a part of his permanent academic record at the home institution in the same manner as if performed at that institution.

(c) (1) For purposes of paragraph (a) (4) of this section a student shall be considered in exceptional financial need if his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 176.13, does not exceed 50 percent of his cost of education at the institution in which he is enrolled or accepted for enrollment.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, the institution may determine that a student is of exceptional financial need where the student financial aid officer of the insti-

tution is of the view that it is impracticable for such student to obtain from employment, loans, or grants other than a Supplemental Grant all of that portion of his cost of education not covered by his expected family contribution. However this provision does not waive the requirements of paragraphs (a) and (b) of § 176.16.

(3) If the institution determines, pursuant to subparagraph (2) of this paragraph, that a student is of exceptional financial need, the reasons for such a determination shall be made a part of the institution's written records.

(d) A member of a religious community, society, or order who (1) by direction of his or her community, society, or order is pursuing a course of study in an institution of higher education or (2) receives support and maintenance from the community, society, or order shall be deemed not to have financial need.

(e) No grant may be made under this part unless the student to whom it is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit on a form approved by the Commissioner stating that the money attributable to such grant will be used solely for expenses related to attendance or continued attendance at such institution. The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at such institution. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(20 U.S.C. 1070b-2, 1088g)

§ 176.10 Duration of student eligibility.

(a) The period during which a student may receive a Supplemental Grant shall be the period required for the completion of the undergraduate course of study being pursued by the student, except that such period may not exceed a total of four academic years unless (1) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or (2) because of his particular circumstances, the student is determined by the institution to need an additional year to complete a course of study normally requiring four academic years, in which case such a period may be extended for not more than one additional academic year.

(b) For purposes of paragraph (a) of this section, an academic year means the period of time necessary for the student to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(20 U.S.C. 1070b-1)

§ 176.11 Cost of education.

(a) The amount required to enable a student to pursue his education at an institution of higher education includes amounts charged for tuition and fees,

the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents.

(b) In the case of a student engaged in a program of study by correspondence only his costs of tuition and fees shall be recognized as a cost of education for the purpose of this part; provided, however, That travel and room and board costs incurred specifically in fulfillment of a required period of residential training may be considered a cost of education for such a student.

(c) If a student is enrolled in a program of study outside the United States which has been determined to be an eligible program pursuant to § 176.9(b), his cost of education may not exceed his cost of education at his home campus.

(20 U.S.C. 1070b)

§ 176.12 Expected family contribution.

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student, the student's spouse, and the student's parents to meet that student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parent may claim an exemption under § 151 of the Internal Revenue Code);

(2) the number of dependent children of the student's parents;

(3) the number of such dependent children attending institutions of higher education;

(4) tuition incurred by such dependent children who are attending elementary and secondary schools; and

(5) such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet such student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of such dependent children attending institutions of higher education;

(4) Tuition incurred by such dependent children who are attending elementary and secondary schools; and

(5) Such other circumstances as may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.



(c) Upon the request of a student who does not live with his parents, who visits his parents for periods of time no longer than those which are typical for adults visiting their parents, and who does not receive from his parents gifts which exceed in value the amounts typically given by parents as incidental gifts to their adult, nondependent offspring, the student financial aid officer shall make a determination as to whether the relationship between that student and his parents is of such a nature that it is unreasonable to expect the parents to contribute toward his cost of education, regardless of their ability to do so. The student financial aid officer shall make the reasons for such determination part of the institution's written records. In any event, before making such a finding, the student financial aid officer shall make such efforts as he deems appropriate to ascertain whether the student's parents are in fact willing to contribute to the student's cost of education.

(20 U.S.C. 1070b-2)

**§ 176.13 Approved need analysis systems.**

(a) In order to comply with the requirements of § 176.12, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) *Dependent students.* (1) The Commissioner has approved the following systems for the purpose of § 176.12(a), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$12,500 if such assets do not include farm or business assets and \$25,000 if such assets do include farm or business assets, except that no more than \$12,500 may be deducted from non-farm and non-business assets, and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(a), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by the following calculations:

(a) From the sum of the adjusted gross income and non-taxable income of the parents, there will be deducted the amount of Federal income taxes and Social Security taxes, an allowance of 8 percent of total income for state and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(b) To the remainder obtained in subparagraph (a) will be added 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve of \$10,000; and

(c) The following rate schedule of expected contributions will then be applied to the sum obtained in subparagraph (b):

If the sum is—		The expected contribution is—
At least—	But less than—	
\$0-----	\$4,000	22 percent of the amount over \$0.
\$4,000----	5,000	\$80+25 percent of the amount over \$4,000.
\$5,000----	6,000	\$1,130+29 percent of the amount over \$5,000.
\$6,000----	7,000	\$1,420+34 percent of the amount over \$6,000.
\$7,000----	8,000	\$1,760+40 percent of the amount over \$7,000.
\$8,000-----		\$2,160+47 percent of the amount over \$8,000.

(iii) In developing the sample cases for the purposes of this paragraph, the Commissioner shall select only cases in which the age of the main wage earner is 45 years and in which the elements set forth in subparagraph (2) (i) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, house-keeping allowances, farm or business assets, more than one family member attending postsecondary institutions, Social Security or Veteran's benefits or any unusual family circumstance.

(iv) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero shall be treated as zero.

(v) The figures for the set of sample cases used for purposes of this paragraph shall be revised annually for inflation by adjusting the deductions for family maintenance, the \$10,000 standard deduction from assets and the rates of contribution from income and assets as necessary in such a manner that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(c) *Independent students.* (1) The Commissioner has approved the following systems for the purpose of § 176.12 (b) with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service; and

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(b), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) *Application procedures for system approval.* Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to subparagraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c) (3) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) *Duration of approval.* Need analysis systems approved pursuant to paragraphs (b) (1) and (c) (1) of this section are approved without a specified expiration date. A need analysis system

approved pursuant to subparagraph (b) (2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (i) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (ii) in determining the eligibility of students for awards under this part, and in calculating the amount of such awards, to be used by the students during any academic year commencing not earlier than 9 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c) (2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1070b-1 and 1070b-2)

**§ 176.14 Coordination of student financial aid programs, grant amount, and overaward.**

(a) *Coordinating official.* The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) *Total award.* The institution shall not award a Supplemental Grant to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 176.13; *Provided, however,* That in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program, regardless of whether the student has applied for such funds, any waiver of tuition and fees, any scholarship or grant including Supplemental

Educational Opportunity Grants and athletic scholarships, any fellowship or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act of 1965) except in cases in which paragraph (c) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program including any loan made under the National Direct Student Loan Program, and any expected net earnings from employment during periods for which the student receives a grant. For purposes of this section "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of Guaranteed Loans.* (1) Except as provided in paragraph (d) (2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 176.12. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act of 1965, as amended (20 U.S.C. 1078), shall be considered a student resource and may not be used to satisfy a student's expected family contribution if (i) the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or (ii) the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for that academic year.

(e) *Administrative responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know or can reasonably anticipate at the time that Supplemental Grant funds are disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic year and/or special session covered by the grant award shall be deemed to have been known by the institution at the time of disbursement of such grant.

(f) An institution will be deemed to have violated the requirements of this section only if the sum of all the resources made available to the student, including assistance under this part, exceeded the student's need by more than \$100. However, if the resources made available to the student included compensation for work-study employment and the student earned additional money from other employment, the institution will be deemed to have violated the re-

quirements of this section only if the sum of the assistance received by the student exceeded the student's need by more than \$200.

(20 U.S.C. 1070e)

**§ 176.15 Coordination with Bureau of Indian Affairs grants-in-aid.**

(a) In determining the amount, if any, of a Supplemental Grant to be awarded to a student who is eligible for such a grant and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 176.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a) (1) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a) (1) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assistance. Except as provided for in paragraph (a) (4) of this section, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in paragraph (a) (3) of this section may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA post-secondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(c) Educational grants-in-aid made to students at an institution under a program administered by the Bureau of Indian Affairs shall be considered to be financial aid made, available through such institution, for purposes of § 176.16, if:

(1) The institution reviews the applications for such grants; and

(2) The institution selects the recipients for, and determines the amounts of, such grants.

(20 U.S.C. 1070b-1)

#### § 176.16 Amount of grant.

(a) The amount of a grant awarded to a student for any academic year shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution for an academic year, except that such amount shall not exceed \$1,500 or one-half the sum of the total amount of student financial aid made available through the institution to such student, whichever is the lesser. However, no grant shall be awarded to any student for any academic year if the amount of such award for such period would be less than \$200.

(b) The amount of a grant awarded to a student for any period which is less than an academic year in length shall be limited by a maximum and a minimum which bear the same proportion to \$1,500 and \$200, respectively, as the length of that period bears to the length of an academic year, but in no event may the amount of the grant exceed one-half the sum of the total amount of student financial aid made available through the institution to the student for that period.

(c) For purposes of paragraphs (a) and (b) of this section, payments to students under the Basic Educational Opportunity Grants Program, the College Work-Study Program, the National Direct Student Loan Program, and this part and any assistance provided to a student under any scholarship program established by a State or a private institution or organization shall be deemed to be student financial aid made available through the institution.

(d) No student shall be awarded more than \$4,000 in the aggregate under this part, except that a student whose eligibility is extended for a fifth year pursuant to paragraph (a) of § 176.10 may receive an amount which in the aggregate is not in excess of \$5,000.

(e) In order to qualify as financial aid made available to the student through the institution for purposes of paragraphs (a) and (b) of this section, such aid must be disbursed by the institution to the student prior to the end of the academic year for which the student re-

ceived an award under this part. However, this requirement is not applicable to the extent that such aid is in the form of scholarships from outside sources where disbursements are not within the control of the institution. If such financial aid is in the form of compensation for work performed for the institution or for an employer other than the institution under an agreement with the institution, such compensation must be earned by the student prior to the end of such academic year and payment therefor must occur no later than the next regular payday following the end of the payroll period during which the work was performed.

(20 U.S.C. 1070b-1)

#### § 176.17 Payment of grant.

(a) A student's award for an academic year shall be divided among payment periods which correspond to the number of semesters, trimesters, or quarters in the institution's academic year. The amounts which may be paid during any payment period shall be in the same ratio to the student's award for the academic year as the length of that payment period bears to the length of the academic year at that institution. An institution which does not utilize such academic terms shall reserve at least half of a student's Supplemental Grant for an academic year for payment to him after the midpoint of such academic year. Within each payment period the institution may pay the student at such times and in such installments as the institution determines will best meet his need for such funds.

(b) Before making the initial payment of a Supplemental Grant for any year to a student the institution shall obtain from that student a written acceptance of the grant and a signed statement indicating that the student received notice of the amount of his Supplemental Grant, of the fact that such amount may not exceed 50 percent of the total amount of student financial aid made available to him through the institution, of the nature and source of the other student financial aid made available to him through the institution, and of the fact that the payment of the Supplemental Grant is conditional on the recipient's maintaining satisfactory progress in the course of study he is pursuing according to the regularly prescribed standards and practices of the institution from which he received the grant and on the recipient's carrying an academic workload sufficient to qualify him as at least a half-time student during the academic year.

(c) A recipient of a Supplemental Grant under this part shall remain eligible to receive payments only if he: (1) Continues to be in exceptional financial need, (2) maintains satisfactory progress in the course of study he is pursuing according to the regularly prescribed standards and practices of the institution from which he received the grant, and (3) carries an academic workload sufficient to qualify him as at least a half-time student during the academic year.

(20 U.S.C. 1070b)

#### § 176.18 Special sessions.

(a) A student enrolled in an institution of higher education in one or more classes during a period of special enrollment, such as a special summer term, will be eligible for a Supplemental Grant if he (i) meets the other eligibility requirements of this part, (ii) is registered as at least a half-time student at that institution during such session, and (iii) is either in attendance as at least a half-time student at that institution during the regular term immediately preceding such session or will be enrolled or has been accepted for enrollment as at least a half-time student during the subsequent regular term at that institution.

(b) A student receiving a grant while in attendance during such a special session will be considered to have expended at least one-half of a semester, trimester, or quarter, as the case may be, of grant eligibility.

(20 U.S.C. 1070b-1)

#### § 176.19 [Reserved]

#### § 176.20 Maintenance of effort.

(a) For each fiscal year for which it receives an allocation of funds under this part, the institution shall continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the three fiscal years preceding (1) the effective date of any agreement required by section 443 of the College Work-Study Program (42 U.S.C. 2753) or section 407 of the Educational Opportunity Grants Program (20 U.S.C. 1067) which was in effect on June 30, 1973, (2) the fiscal year for which the institution receives or received its first allocation of funds under the College Work-Study Program, (3) the fiscal year for which the institution received its first allocation of funds under the Educational Opportunity Grants Program (20 U.S.C. 1061-1067, 1069), or (4) the fiscal year for which the institution receives or received its first allocation of funds under this part if the institution did not participate in the Educational Opportunity Grants Program in the fiscal year immediately preceding that fiscal year, whichever is the latest.

(b) (1) The Commissioner may waive the requirements set forth in paragraph (a) of this section for a fiscal year under special and unusual circumstances, such as, where the institution's inability to expend the amount required thereunder is attributable to (i) a withdrawal of funds from outside sources (for public institutions, public appropriations are not considered an outside source), or (ii) a decline in enrollment where the institution continued to expend in its own scholarship and student aid program on a per-enrolled-student basis an amount at least equal to the average amount expended per enrolled student during the three year base period.

(2) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular



fiscal year because it withdrew as a direct lender under the Guaranteed Student Loan Program, the Commissioner may waive that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period if (i) the institution provides financial assistance to its students in an amount equivalent to the amount it is required to maintain pursuant to paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(3) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular fiscal year because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner prior to July 1, 1976, the Commissioner may waive that portion of the failure for each such fiscal year prior to July 1, 1976 that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period.

(4) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner after June 30, 1976, the Commissioner may waive for that fiscal year that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period. The Commission may also waive that amount for future fiscal years if (i) the institution provides financial assistance to its students in an amount it is required to maintain pursuant to paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(5) For purposes of this paragraph the Commissioner will consider that the institution has arranged alternate sources of assistance for its students if such assistance is provided to the institution's students pursuant to a written agreement between the institution and the funding source.

(6) For purposes of this section "fiscal year" means a period beginning on July 1 and ending on the following June 30. A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

(c) In order to obtain a waiver of the maintenance of effort requirement set forth in paragraph (a) of this section for a particular fiscal year, an institution shall submit to the Commissioner a request for such a waiver and a descrip-

tion of the circumstances justifying such a waiver.

(d) An institution's "own scholarship and student financial aid program" includes any expenditure of institutional funds for scholarships, grants, loans, tuition and fee waivers or remissions, and employment given to students enrolled at the institution at both the graduate and undergraduate level, whether or not such students are eligible to participate in the Supplemental Grants or College Work-Study Programs. Funds given to the institution from an outside source to be used for scholarships or other forms of student financial aid, but with respect to which the institution has the authority to choose the recipients and the amount such recipients will receive, shall be deemed to be institutional funds; however, funds received from Federal sources to be used for student financial aid may not, in any event, be considered as part of an institution's own scholarship and student financial aid program for purposes of paragraph (a) of this section.

(e) (1) An institution may, in accordance with its stated practice, consider scholarships and other student financial assistance given to students who are dependents of faculty members or other employees of the institution as either student financial aid or employee benefits.

(2) An institution shall include fellowships and assistantships as part of its program of student financial assistance unless it is the stated practice of the institution to consider such holders of fellowships and assistantships as members of the institution's faculty. In such a case payments under such fellowships and assistantships need not be considered financial aid.

(3) An election of treatment under paragraphs (e) (1) and (2) of this section shall apply to both the base year period and current year expenditures. A change of treatment will be permitted only with the express written approval of the Commissioner.

(20 U.S.C. 1088c)

§ 176.21 Transfer of funds.

(a) An institution may transfer up to 10 percent of its allocation for a fiscal year under the Supplemental Grants Program to its allocation of funds for that fiscal year under the College Work-Study Program to be used in accordance with the provisions of that later program. Similarly, an institution may transfer up to 10 percent of its allocation for a fiscal year under the College Work-Study Program to its allocation of funds for that fiscal year under the Supplemental Grants Program to be used in accordance with the provisions of this part. The transfer of funds from the Supplemental Grants Program may be made without regard to whether such funds were allocated for initial or continuing grants and funds transferred to the Supplemental Grants Program may be allocated by the institution between its allocation for initial or continuing grants as the institution sees fit.

(b) Any amount transferred pursuant to paragraph (a) of this section shall be reported on the annual Institutional Fiscal-Operations Report required by § 176.23(b) (2).

(20 U.S.C. 1088e)

§ 176.22 Use of funds.

(a) Federal funds allocated to an institution under this part may be used by the institution (1) to make grants to eligible students, (2) as payments in lieu of reimbursement for its expenses in administering the program during the fiscal year, and (3) to transfer to the College Work-Study Program pursuant to § 176.21.

(b) An institution of higher education shall be entitled to use as payment in lieu of reimbursement for its administrative expenses for each fiscal year for which it receives an allocation under § 176.4 an amount equal to not more than three percent of the institution's payments to its students from its allocation for that fiscal year. However, the aggregate amount paid to an institution in lieu of expenses for administration under this part and the College Work-Study Program plus the amount withdrawn for such purposes from the institution's National Direct Student Loan fund may not in the aggregate exceed \$125,000 for any fiscal year.

(20 U.S.C. 1070b; 1088b)

§ 176.23 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution shall administer the Supplemental Grants Program in such a manner as to provide for an adequate system of internal controls. The various administrative procedures shall be divided so as to provide for a system of checks and balances under which no person will be directly responsible for all aspects of the program. The functions of authorizing payment and disbursing funds shall be divided in such a fashion that no office has responsibility for both functions, with respect to any particular student aided under the program.

(2) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions shall give notice to any bank in which they deposit Federal funds of all accounts in that bank in which such funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or,

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution shall establish and maintain on a current basis, adequate records which reflect all transactions with respect to the program and shall establish and maintain such general ledger control accounts and related subsidiary accounts as are necessary to identify all transactions involving Federal funds available under this part and to separate

records of such transactions from all other institutional assets and activities. Such records shall afford ready identification of each student's account and the status thereof, including separation of initial and continuing grant amounts, shall be adequate to demonstrate the eligibility of every student aided under the program, shall indicate the amount of need determined for each student and the way that need has been met, and shall identify the institutional officer who made the determination of such need.

(3) An institution shall submit an annual Institutional Fiscal-Operations Report and such other reports and information in such form and at such times as the Commissioner may require in connection with the administration of this part and shall comply with such requirements as the Commissioner may find necessary to insure the correctness of such reports.

(c) *Retention of records.*—(1) Records. Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with § 434(a) of the General Education Provisions Act (20 U.S.C. 1232c), including all accounting records and related original and supporting documents that substantiate costs charged to the award.

(2) *Period of retention.* Except as provided in paragraph (c) (4) of this section, the records specified in paragraph (c) (1) of this section shall be retained for 5 years after the date of the submission of the annual Institutional Fiscal-Operations Report.

(3) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(4) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions; *Provided, however,* That records need not be retained if they relate to a grant with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415(b).

(5) *Audit and examination.* The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in paragraph (c) (1) of this section and to any other pertinent books, documents, papers, and records of the recipient.

(d) *Audits—non-Federal.* All of an institution's transactions involving its Supplemental Grant funds shall be audited by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with ap-

plicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. The frequency of such audits shall depend on the size and complexity of the activity of the program except that such audits shall be carried out at least once every two years.

(e) Such audit reports shall be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located for its review. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(20 U.S.C. 1070b; 20 U.S.C. 1232c)

#### § 176.24 Federal interest in allocated funds.

Funds received by an institution pursuant to this part, excluding funds authorized for administrative expenses, are to be held in trust for the intended student beneficiary. Such funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(20 U.S.C. 1070b)

#### § 176.25 Termination and suspension.

(a) *General.* If the Commissioner finds that any of the assurances or representations made by an institution in connection with the administration and operation of the Supplemental Grant Program is incomplete or inaccurate in any material respect or that there has been a failure to comply with any of the provisions of this part, he may, after giving the institution notice and an opportunity for a hearing, terminate the agreement entered into pursuant to § 176.8 or take such other actions as may be necessary and appropriate to protect the interest of the United States. The termination of the institution's participation in the program shall not affect the obligations previously incurred by either party under that agreement or this part.

(b) *Notice of termination.* Proceedings with respect to the termination of the program shall be initiated by the mailing of a notice to the institution setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(c) *Suspension of assistance.* Subject to paragraph (e) of this section, assistance may be suspended during the pendency of a termination proceeding initiated pursuant to this section.

(d) *Notice of suspension.* If the Commissioner determines that suspension of assistance during the pendency of a termination proceeding is necessary, notice of the suspension shall be mailed

to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) inform the recipient of that determination, (2) advise the recipient of the effective date of the suspension, and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Opportunity to show cause.* If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(20 U.S.C. 1070b and 1232c)

#### APPENDIX A

##### ALLOTMENT OF FUNDS TO STATES FOR FISCAL YEAR 1972

Alabama	\$1,136,296
Alaska	37,532
Arizona	794,102
Arkansas	645,093
California	8,125,711
Colorado	1,092,555
Connecticut	994,752
Delaware	174,114
District of Columbia	568,864
Florida	2,066,032
Georgia	1,291,155
Hawaii	298,396
Idaho	320,388
Illinois	3,743,393
Indiana	1,967,198
Iowa	1,331,999
Kansas	1,082,749
Kentucky	1,080,641
Louisiana	1,276,332
Maine	308,431
Maryland	1,168,652
Massachusetts	2,758,217
Michigan	3,339,267
Minnesota	1,663,842
Mississippi	863,948
Missouri	1,754,718
Montana	323,599
Nebraska	713,689
Nevada	116,425
New Hampshire	322,323
New Jersey	1,321,749
New Mexico	412,226
New York	6,234,168
North Carolina	1,783,607
North Dakota	351,555
Ohio	3,563,791
Oklahoma	1,178,300
Oregon	1,035,037
Pennsylvania	3,751,149
Rhode Island	393,990
South Carolina	690,473
South Dakota	347,053
Tennessee	1,398,807
Texas	4,038,448
Utah	781,127
Vermont	236,526
Virginia	1,293,349
Washington	1,525,138
West Virginia	707,338
Wisconsin	1,316,003
Wyoming	151,335
Guam	13,218
Puerto Rico	555,030
Virgin Islands	4,745
Total	75,050,000

[FR Doc.76-34346 Filed 11-23-76; 8:45 am]

# **federal register**

APPENDIX H

**WEDNESDAY, SEPTEMBER 1, 1976**



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**PART II:**

**DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE**

**Office of Education**

**COLLEGE WORK-STUDY  
PROGRAM**

**Issuance of Guidelines**

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 175—COLLEGE WORK-STUDY PROGRAM

The purpose of the College Work-Study Program is to stimulate and promote the part-time employment of students who are in need of earnings to meet their costs of postsecondary education. Under the program grants are provided to eligible institutions of postsecondary education to enable them to create job opportunities for their eligible students. The institution may arrange employment in work for the institution itself (except in the case of proprietary institutions) or in work in the public interest for a public or private nonprofit organization. Up to eighty percent of the student's wages may be paid from the institution's Federal College Work-Study allocation, and the remaining twenty percent, plus any additional employer costs, is paid by the institution or the off-campus employer. The kinds of jobs being performed by College Work-Study students, both on campus and in the community, are vast in number and as varied as the needs of the student, the institution, and the community or area. During Fiscal Year 1976 over 3,200 institutions participated in the program and approximately 973,000 students were employed with earnings averaging \$520 per student.

Students interested in applying for employment under the College Work-Study Program should contact the financial aid officer at the institution at which they are enrolled or which they plan to attend. The financial aid officer is responsible for determining student eligibility and arranging job opportunities. He determines the amount a student and his family should be expected to provide to meet the costs the student will incur at his institution. He then subtracts this expected family contribution from the total educational costs to arrive at the student's need. The student's need may be met totally or in part through earnings from College Work-Study employment. Often the earnings will constitute part of a student financial aid "package" in which several other forms of assistance, such as a National Direct Student Loan or a Supplemental Educational Opportunity Grant, may be included. The financial aid officer will attempt whenever possible to assign employment in the student's field of interest. However, since employment opportunities will vary depending on the type and size of institution and the area in which it is located, it may not always be possible for the student to be employed in a career related position. The most important factor is that the job, whatever its nature, provides a source of financial assistance to meet educational expenses.

Notice of proposed rulemaking was published in the FEDERAL REGISTER of October 14, 1975 (40 FR 48266-48277) setting forth regulations for College Work-Study Program, authorized by Title IV,

Part C, of the Higher Education Act of 1965, as amended (42 U.S.C. 2751-2756). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92-318), hearings were held in Washington, D.C., Dallas, Texas, and San Francisco, California, and comments were received on the proposed regulation. In addition, interested persons were invited to submit written comments and recommendations to the U.S. Office of Education, Room 2085, Federal Office Building Six, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: Chairman, Office of Education Task Force on Section 503. Written comments were received and considered.

*A. Summary of Comments—Office of Education Response.* The following oral and written comments were received by the Office of Education regarding the proposed regulation. In view of the volume of comments received, the Office of Education has summarized as many of the comments as possible under single headings. After a summary of such comments, a response is set forth stating the changes which have been made in the regulation or the reasons why no change is deemed necessary.

## SECTION 175.2 DEFINITIONS

*"Academic Year." Comment.* One commenter requested clarification of the verb "complete" as it is used in this definition, questioning whether it implied a specific requirement upon a student to earn credits or to remain enrolled in a course from which he might otherwise choose to withdraw.

*Response.* The definition of an "academic year" is an attempt to define a period of time in a manner which will provide comparability among institutions using differing units of measurement for organizing instructional periods. Taken in context the verb "complete" clearly is used in a general sense as part of the definition of a unit of measurement: "... a period of time \* \* \* in which a full-time student would normally be expected to complete the equivalent of \* \* \* Student eligibility requirements are included elsewhere in the regulations.

*"Area vocational school." Comment.* Two commenters requested that the reference to junior and community colleges in § 175.2(c)(4) be deleted and that they be specifically included in the definition of an "eligible institution." Another commenter questioned the ramifications for schools meeting the eligibility criteria under both the definitions "area vocational school" and "institution of higher education."

*Response.* Section 443(b) of the Higher Education Act of 1965, as amended, which sets forth the types of institutions eligible to participate in the Work-Study Program, stipulates that an eligible area vocational school shall meet the definition of section 8(2) of the Vocational Education Act of 1963. Since the language of the definition is mandated by statute, it cannot be changed by regulation. Furthermore, a single division of

a junior or community college cannot qualify as both an area vocational school and an institution of higher education since a junior or community college qualifying as an institution of higher education can admit as regular students only persons having a high school diploma or the recognized equivalent, whereas a department or division of a "junior or community college" which qualifies as an area vocational school must admit as regular students both high school graduates and non-high school graduates.

*Comment.* Two commenters questioned whether a difference in meaning was intended in the use of the verbs "pursuing" in defining a full-time student and "carrying" in defining a half-time student.

*Response.* No difference was intended. In response to the commenter's suggestion, the term "carrying" will be used uniformly in both definitions.

*"Good standing." Comment.* Several commenters recommended that the definition of the term "good standing" be expanded to include a more precise standard than simply eligibility to continue in attendance in accordance with institutional standards and practices. These commenters noted that some public institutions are required by State law to permit any State resident to continue in attendance as long as he or she wishes, without regard to the student's academic performance.

*Response.* The commenter's recommendation has been adopted. The definition of "good standing" has been expanded to require that for purposes of student eligibility under the Work-Study Program, a student must be making measurable progress toward the completion of his course of study. Accordingly, a student who fails all of his courses cannot be considered in good standing for purposes of determining his eligibility for continued employment under the College Work-Study Program.

*"Half-time student." Comment.* One commenter suggested that for purposes of consistency the phrase "whether or not for credit" should either be deleted from the definition of a full-time student or added to the definition of a half-time student.

*Response.* The commenter's point is well taken; the phrase "whether or not for credit" has been deleted from the definition of a full-time student in § 175.2(k) of the final regulation. The definition of a half-time student is more detailed since it is one of the standards by which student eligibility is determined.

*Comment.* One commenter suggested that the minimum number of semester or quarter hours cited in § 175.2(1)(2)(1) of the proposed regulation as necessary to constitute a half-time academic work load should be increased from six to eight.

*Response.* The suggestion was not adopted as a requirement for all institutions; however the commenter's institution may use such a higher standard if it chooses to do so. The Office of Edu-

cation has tried to develop a definition which will accommodate a wide variety of programs and institutions of post-secondary education. The standard for determining half-time student status is to be established by the institution, except that for this program it may not be less than the minimum set by the Office of Education.

*Comment.* Several commenters noted that institutions frequently have different standards for full-time (and half-time) student status at the graduate level as compared to their standards for undergraduates, often requiring an academic work load of fewer course hours than that required for undergraduates. Therefore, the commenters suggested that the definition of a "half-time student" should be expanded to include a lower minimum number of hours per term for graduate and professional half-time students.

*Response.* In accordance with the commenter's suggestion, definitions of the terms "graduate student" and "half-time graduate student" have been included in the regulations.

*Comment.* Two commenters suggested the inclusion in the regulations of a definition of "postsecondary student" to facilitate eligibility determinations.

*Response.* The suggestion was not adopted. The Office of Education considers § 175.9 outlining student eligibility criteria to be sufficient to resolve any eligibility questions which may arise.

"Institution of Higher Education."  
*Comment.* Two commenters objected to the requirement set forth in § 175.2(m) (1) of the proposed regulation defining an institution of higher education as admitting "as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate." One commenter observed that many community colleges regularly enroll students in academic programs without reference to their graduation from high school or other certification. Another commenter noted that some institutions may enroll students who have failed to complete high school and have no recognized equivalent of a diploma, but are considered by the institution to be qualified for admission. One commenter questioned whether an institution following such a practice would be ineligible to participate in the College Work-Study Program and another suggested that the definition be amended to include institutions which admit primarily students with high school diplomas or the equivalent but also others whom the institution deems qualified.

*Response.* The definition to which the commenters object is set forth in section 1201(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1141(a)), and cannot be changed by regulation. It should be noted that section 1201(a) (1) of the Higher Education Act and § 175.2 (q) (1) of the regulations require that institutions of higher education admit as regular students only persons having a high school diploma or the recognized

equivalent. Therefore, any institution which admits as regular students persons who do not have a high school diploma or the recognized equivalent may not qualify as an institution of high education. In order to participate in the College Work-Study Program such an institution must qualify as an area vocational school.

"Proprietary institution of higher education."  
*Comment.* One commenter suggested that the resolution of eligibility questions could be facilitated if the definition included a definition of a six-month program of training.

*Response.* The commenter's suggestion has been adopted. A minimum standard for a six-month program of training has been included in the definition of a "Proprietary institution of higher education." Furthermore, a comparable definition has been added to § 175.2(q) with regard to a one-year program of training as well as the definition of a clock hour.

"Self-supporting or independent student."  
*Comment.* The proposed definition included a requirement that the student "has not lived or will not live for more than two consecutive weeks in the home of a parent during the calendar year." Most of the commenters felt that two weeks was too restrictive a period and many believed that such a limitation would be particularly harsh for veterans just returning from service, for students who became ill, or for a student recently separated from a spouse. Many commenters offered alternative periods of time for visits, varying from three weeks to four months, while others suggested adding a waiver for exceptional circumstances. One commenter objected to the \$600 limitation on the amount of assistance a "self-supporting student" could receive from his or her parent(s), and suggested that it should be raised to a higher level. In addition several commenters were concerned that the definition did not make clear whether one or both parents should be deceased for a student to be declared "self-supporting."

*Response.* The definition of self-supporting or independent student is an attempt to define in objectively measurable terms the nature of a relationship which is essentially subjective rather than objective. This definition is one which is or will be used by the other programs of student financial aid administered by the Office of Education. It is recognized that the proposed definition is somewhat arbitrary, but for the sake of consistency with other programs it is not being changed. However, to accommodate the concerns which were expressed about this definition, provision was made in 175.12 to give the student financial aid officer at an institution the discretionary authority to determine in any particular case whether the relationship between a student and his parents is of such a nature that it is unreasonable to expect the parents to contribute towards the student's cost of education, regardless of whether that student qualifies as an independent student.

The intent of the provision concerning a deceased parent is simply to state the obvious: A student cannot be considered to be dependent on a deceased person. However, the death of one parent does not automatically make it unreasonable to expect the surviving parent to contribute towards the student's cost of education. Therefore, if there is a surviving parent, the test enumerated in the first part of the definition would have to be met with respect to the relationship between the student and the surviving parent before the student could be considered self-supporting or independent. Again, any hardship resulting from the definition may be rectified by the institution's financial aid officer.

**SECTION 175.3 ALLOTMENT OF FEDERAL FUNDS TO STATES**

*Comment.* Several commenters recommended that the method stated in former regulations and in § 175.3(b) (3) of the notice of proposed rulemaking by which the Commissioner exercises his discretion to allocate 10 percent of the College Work-Study appropriation after 2 percent has been withheld for allotment to institutions in Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, be phased out and that the Commissioner exercise his discretion by allocating this sum in accordance with the statutory formula under which the 90 percent initial allotment to the States is distributed.

*Response.* The Office of Education agrees that the current method of allocation needs revision and is currently reviewing alternatives, one of which is that suggested by the commenter. However, since any change would have a substantial effect on the amount of funds some institutions would receive, the Office of Education plans to publish any change in the allocation procedure as a notice of proposed rulemaking on which public comment will be invited.

*Comment.* Several commenters suggested that the formula set forth in § 175.3(b) (1) for computing the initial allotment to States should be amended to include students enrolled on at least a half-time basis in § 175.3(b) (1) (i) rather than only full-time students and others suggested that the family income cut-off level of \$3,000 stated in § 175.3 (b) (1) (iii) be raised to a higher level to reflect trends in the economy.

*Response.* These components of the allotment formula are set forth in the authorizing statute (442(b) of the Act, 42 U.S.C. 2752(b)); therefore the regulation may not be changed.

**SECTION 175.5 INSTITUTIONAL APPLICATIONS**

*Comment.* Some commenters questioned whether a difference in meaning was intended between the term "average cost of education" in § 175.5(a) (4) and "average cost of attendance" in § 175.5 (a) (7).

*Response.* Section 175.5(a) (7) of the notice of proposed rulemaking was redundant and has been eliminated in the final regulation.

*Comment.* One commenter questioned the use of the term "annual per student costs" in § 175.5(a)(4) and suggested that the costs to which it refers are intended to cover an academic year rather than a twelve-month period.

*Response.* The commenter is correct and the phrase has been changed to "per student costs . . . for an academic year" in the final regulation.

*Comment.* A number of commenters objected to the requirement of a justification of any per student costs for books and supplies in excess of \$175 and for personal expenses in excess of \$450 since they felt these figures were unrealistically low, inflexible benchmarks. Some suggested raising these amounts while others felt no specific dollar amounts should be stated. Another commenter suggested, as a substitute, a regulation setting guidelines an institution could follow in determining student costs for various budget items.

*Response.* The proposed regulation was not changed. These amounts are used as an average for all institutions across the nation, and the Office of Education does not consider them unrealistically low. It is recognized that some institutions may vary from the norm and that higher amounts may be justified in some cases. Furthermore, this requirement does not set fixed standard amounts which may not be exceeded, but merely requires that higher amounts be justified.

*Comment.* One commenter suggested that § 175.5(a)(4) of the regulation should include benchmark amounts for room and board not provided by the institution, and transportation costs as well as for books, supplies, and personal expenses.

*Response.* The Office of Education is currently planning to conduct a study which will have as its main purpose the establishment of parameters for these educational costs for use in the application review process. At present no fixed amounts have been established to be used as benchmark figures for these educational costs.

*Comment.* One commenter suggested that § 175.5(a)(5) and (6) should specify that the number of students to be employed is to be an estimated number.

*Response.* The commenter's suggestion has been adopted. To provide consistency in the listing of items to be included in the application, the adjective "anticipated" has been included in both clauses.

*Comment.* One commenter recommended that Federally Insured Student Loans made by the institution should not be included in the calculation (cited in § 175.5(a)(10) of the proposed rule) of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent year for which information is available, since, according to the commenter, these loans are made to fill unmet need caused by inadequate funding of other Federal programs.

*Response.* No change has been made in response to this comment. The statement made by the commenter could be claimed with respect to any institutional program

of student financial aid and is therefore not limited to Guaranteed Loans only.

*Comment.* One commenter suggested that to provide consistency among program regulations governing the tripartite application, the College Work-Study regulations should include the request for average unmet need per student and justification of any amount in excess of \$200 which was included in § 144.5(a)(12) of the notice of proposed rulemaking for the National Direct Student Loan Program.

*Response.* This item was inadvertently omitted from the College Work-Study notice of proposed rulemaking and has been included in the final regulation as the commenter suggested.

*Comment.* A number of commenters suggested that § 175.5 include specific reference to the terms and conditions of submitting the abbreviated application, referred to as the "short form," which institutions have been allowed to submit under certain conditions in requesting funds for FY 1976 and FY 1977.

*Response.* The suggestion of the commenters has been accepted and a new paragraph specifying terms and conditions for submitting a "short form" has been included in the final regulation.

*Comment.* One commenter suggested that the deadline for submitting the application be included in the regulation.

*Response.* The deadline for submitting the annual tripartite application is published each year in the FEDERAL REGISTER. Since various unforeseen factors may arise which could necessitate a change in the time of this deadline date from one year to another the Office of Education feels that annual publication of the date in the FEDERAL REGISTER is preferable to including it in the program regulations.

*Comment.* Some commenters felt the wording of § 175.5(b)(1) as related to the remainder of that subsection could be construed to mean that all correspondence on financial aid matters would be addressed to the president of the institution.

*Response.* The wording of this subsection has been revised in the final regulation to respond to the commenters' concerns.

#### SECTION 175.6 FUNDING CRITERIA

*Comment.* One commenter requested a definition of the term "reasonableness" as it is used in this section.

*Response.* No special definition was considered necessary. The term "reasonableness" as applied to the funding criteria in § 175.6 should not be construed as having any special meaning outside the normal usage of the term as defined in any modern dictionary. The Office of Education considers it an appropriate term to be used as an evaluation criterion by a panel of experts.

*Comment.* One commenter noted that § 144.6(g) of the notice of proposed rulemaking for the National Direct Student Loan Program calls for a review of the adequacy of the justification required in § 144.5 of any costs in excess of \$175 for books and supplies and \$450 for personal

expenses, and of the explanation required for any unmet need per student in excess of \$200. The commenter suggested that this criterion should be included for this program.

*Response.* This criterion was inadvertently omitted from the College Work-Study notice of proposed rulemaking and has been included in the final regulations as the commenter suggested.

#### SECTION 175.7 APPLICATION REVIEW AND APPROVAL OF REQUEST

*Comment.* Several commenters suggested that the term "qualified persons" as used in this section of the proposed regulations should be restated to specify experienced individuals who work directly with financial aid programs and also that the regulations should require the inclusion of practicing financial aid officers.

*Response.* The suggestion was not adopted. The Commissioner feels that the wording of this item in the proposed regulations expresses much of the commenter's intent. The regulation stipulates that the Commissioner shall convene panels of "qualified persons" to evaluate institutional applications; obviously, a person cannot be considered "qualified" unless he is conversant with the administration of student financial aid programs.

*Comment.* One commenter suggested that the final regulation should require the inclusion of practicing financial aid officers in the regional review process outlined in § 175.7(c) of the proposed regulation.

*Response.* The regional review procedure outlined in § 175.7(c) does not preclude the use of a panel of practicing financial aid officers if the regional office chooses to employ such a panel. In some instances, however, the issues involved in the review of the original panel's recommendation may be handled more expeditiously by direct negotiation between the regional office and the institution. Therefore, the option to use or not use a panel of practicing financial aid officers at this stage of the review process has been left to each regional office as it deems appropriate. In this context it should be noted that the regulation does stipulate that an institution may request a review of the region's recommendation by a national review panel.

*Comment.* One commenter felt the proposed regulation prevented the introduction of additional material at any point in the appeal process.

*Response.* The commenter is incorrect in his assumption. Additional information may be presented to the regional office when a review of the original panel recommendation is requested (45 CFR 175.7(c)). However, no new information may be presented to the national review panel, because the regional office should have been given the opportunity to act on any additional information prior to its presentation to a national review panel.

*Comment.* One commenter suggested that the regulation should require that the panel review guidelines be supplied to institutions as a guide to assist them in completing the application.



*Response.* The suggestion was not adopted. The panel review guidelines contain no requirements which are not included in the regulation and are an internal working document intended to assist panel members in the review process.

*Comment.* One commenter suggested that the time period for submission of a request for national review should be specifically stated in the regulation rather than using the phrase "within such time as may be specified by the Commissioner."

*Response.* As noted in the earlier comment on the deadline for submitting the application, various unforeseen factors may arise which would necessitate changes in deadline dates or in the time period between the original submission of the application and the convening of the national review panel. Consequently, it is considered inappropriate to include a specific time period in these regulations.

SECTION 175.8 INSTITUTIONAL AGREEMENT

*Comment.* One commenter suggested that the terms of agreement stated in the regulations should include an assurance by the institution that it will seek worthwhile job opportunities for students who are to be employed under the program.

*Response.* The Office of Education agrees with the goal expressed in this comment. However, since the institution agrees to administer the program in accordance with the regulations, which include this goal in § 175.1, it is not necessary to repeat it as a condition of the terms of agreement in § 175.8.

SECTION 175.9 ELIGIBILITY AND SELECTION OF STUDENTS

*Comment.* Some commenters felt that there was a conflict between the requirement stated in the proposed regulation that preference in the selection of students for employment under the College Work-Study Program be given to students with greatest financial need taking into account grant assistance provided from any public or private source, and the requirements for awarding a Supplemental Educational Opportunity Grant.

*Response.* The regulatory provision to which the commenter refers is identical to 444(a)(3) of the Act. This section appears in a sense to be incongruent with 413C(a)(2)(D) of the Higher Education Act of 1966, as amended, (20 U.S.C. 1070b-2) which stipulates that a Supplemental Grant shall be awarded only to a student who "would not, but for a supplemental grant, be financially able to pursue a course of study at such institution." We agree with the commenter's point that these sections appear to conflict. However, the conflict is caused not by the regulation but by the statute which the regulation merely repeats.

*Comment.* One commenter questioned whether the requirement of granting preference in the selection for employment under the program would preclude taking into account other factors such as the receipt of a student application by a deadline date, willingness and ability to work, previous aid awards, including

total outstanding loan obligations, and academic factors such as grade point average and major.

*Response.* This statutory requirement need not be construed as preventing the institution from establishing and adhering to an application deadline date, or from meeting the need of a student in the preference category with other forms of aid if the student is in agreement or if College Work-Study employment is deemed inappropriate in considering the student's health, academic progress, schedule of classes, etc. However the other factors cited by the commenter (i.e., outstanding indebtedness, grade point average, and academic major) may be used only in making selections among students who have equal need after taking into consideration any grant aid they have received from any public or private source.

*Comment.* One commenter questioned whether the statutory preference requirement would permit priority consideration for "renewal" students over others who have a greater financial need.

*Response.* Priority consideration for students who have previously received aid is not permitted. However, in choosing among students who have an equal ranking in the preference category, an institution can use other factors.

*Comment.* One commenter questioned whether the regulations would preclude an institution from refusing to award any aid in instances where the institution was unable to meet the student's full need.

*Response.* If the disparity between the amount the institution can award a student and the amount the student needs is so great that it can easily be predicted that student will be forced to withdraw before the end of the academic period for which the aid is awarded, the institution would have justification for refusing to award the insufficient amount.

*Comment.* One commenter recommended deleting the requirement for granting preference in selection for employment to students with greatest financial need, taking into account grant assistance provided from any public or private sources. The commenter felt that knowledge of such grants may not be known to the financial aid officer at the time the student's need is assessed, and that this preference criterion would favor independent students at the expense of disadvantaged dependent students, and also favor graduate and professional students at the expense of undergraduates.

*Response.* As noted in the response to the first comment on this section of the regulations, the provision to which the commenter refers is identical to section 444(a)(3) of the Act and may not be changed in the final regulations. With regard to the commenter's first point, the institution would know at least the amount of the student's Basic Grant entitlement.

*Comment.* Several commenters objected to the provision contained in § 175.9(e) of the proposed regulation, § 175.9(f) of the final regulation, which

requires the institution to make employment under the Work-Study Program or "equivalent employment offered or arranged for by the institution reasonably available (to the extent of available funds) to all eligible students in need thereof." They objected on the basis that such a requirement constituted undue interference in institutional affairs and that it would prevent the awarding of institutional employment on the basis of specific skills or academic ability without regard to need.

*Response.* The provision to which the commenters refer is identical to section 447(a)(7) of the Act and may not be changed in the final regulations. However, this statutory provision should not be interpreted as an attempt to introduce a needs test into all institutional student employment programs. Rather, this provision is intended to apply to those funds of the institution which it has set aside for the employment of needy students.

*Comment.* One commenter questioned the omission from the student eligibility criteria in § 175.9 of the requirement included in section 444(a)(3)(B) of the Act that the student show evidence of academic or creative promise. The commenter noted that it appeared among the student eligibility criteria in § 175.8 (Institutional Agreement). Another commenter recommended that this eligibility requirement be deleted entirely from the regulations on the grounds that the measurement of academic and creative promise across the range of participating institutions covers such a variety of skills and talents as to make this requirement unenforceable. Several commenters suggested that a definition of the term "evidence of academic or creative promise" should be included in the regulations.

*Response.* The omission from § 175.9 of the student eligibility requirement cited by the commenters was an oversight which has been corrected in the final regulations. Since this requirement is included in the Act, it cannot be omitted as the second commenter suggested. However, a definition of the term "evidence of academic or creative promise" has not been included since the Commissioner feels that decisions concerning a student's potential may be made by the institution using its own judgment.

*Comment.* One commenter recommended the deletion of the requirement of a high school diploma as one of the eligibility criteria for students in area vocational schools.

*Response.* The provision to which the commenter refers is required by 444(b) of the Act, and may not be changed in the final regulations. A further discussion of this point may be found in the responses to the comments on the definitions in § 175.2 of "area vocational school" and "institution of higher education."

*Comment.* One commenter suggested the inclusion in this section of the regulations of a statement defining student eligibility when the student is participating in a program of study abroad.

*Response.* The commenter's suggestion has been adopted. A statement on student eligibility during participation in an eligible program of study outside the United States is included as § 175.9(c) of the final regulations.

*Comment.* One commenter questioned the term "actual cost of education" as it appeared in § 175.9(c) of the proposed regulation, and suggested that institutions should be permitted to use a set of standard or average costs to facilitate need analysis procedures, especially when large groups of students are involved.

*Response.* The use of such a set of reasonable standard or average costs in need analysis procedures is not necessarily precluded by the regulation for all types of costs. For those costs which are readily identifiable, such as tuition and fees; on-campus housing, and other amounts paid directly to the institution, actual costs should be used. However, with respect to amounts not paid to the institution, such as room and board off-campus, personal expenses and transportation, the institution may use estimates which approximate the amounts reasonably necessary for such purposes.

*Comment.* Several commenters objected to the requirement that the student affidavit noted in § 175.9(f) of the proposed regulation be signed in the presence of a notary or other person legally authorized to administer oaths or affirmations. One commenter suggested the regulations should specify that the content of the affidavit form could be integrated into other institutional forms and that other items could be included in the affidavit at the discretion of the institution.

*Response.* The regulation was not changed. Section 498 of the Higher Education Act of 1965, as amended (20 U.S.C. 1088g), requires the student to sign an "affidavit." An "affidavit" is a written statement made under oath or affirmation before a notary public or other person authorized under State law to administer such an oath or affirmation. With regard to the second comment, the affidavit may be integrated into other forms in a manner of the institution's own choosing, provided that it remains clearly identifiable as a document and is properly sworn.

#### SECTION 175.10 SPECIAL SESSIONS

*Comment.* One commenter felt that the definition of the term "half-time student" should be expanded to reflect the difference in the number of hours necessary to be considered enrolled half-time during a regular period of enrollment and during a special session. Another commenter suggested that § 175.10(a)(2) should include the requirement of acceptance for enrollment at the next regular session as well as the student's intention to continue, since at many institutions acceptance for enrollment during a summer session does not necessarily constitute acceptance for enrollment at the next regular session.

*Response.* A student will be eligible to participate in the College Work-Study Program during a summer vacation pe-

riod or other periods of nonregular enrollment (special session), regardless of his enrollment status during that period, only if (1) he will be enrolled, or has been accepted for enrollment, as at least a half-time student at that institution for the regular session following such special session or (2) he will complete his course of study during such special session and was enrolled at that institution as at least a half-time student in the regulation session preceding the special session.

A student's eligibility to participate in the College Work-Study Program cannot be established solely on the basis of his enrollment status during a special session. The regulation has been clarified in response to the commenters' questions.

*Comment.* One commenter suggested that the term "other field experience education program" should be added to the several examples of a period of nonregular enrollment included in the first sentence of § 175.10(a) of the proposed regulation.

*Response.* The recommendation was not adopted. As indicated by the use of the phrase "such as," the several examples cited in the clause to which the commenter refers were not intended to be all-inclusive. There may be a number of different labels which could be attached to a period of non-regular enrollment; the regulations do not attempt to enumerate all of them.

#### SECTION 175.11 COST OF EDUCATION

*Comment.* One commenter suggested that an amount equal to 5 percent of the student's College Work-Study award should be added to the cost of education to account for the various costs the student may incur incidental to his College Work-Study employment.

*Response.* The suggestion was not adopted since no rewording of the proposed regulation was felt necessary to accomplish the purpose sought by the commenter. In satisfying the student's need, net earnings are considered as that portion of his financial aid package derived from Work-Study employment which are to be used to meet the student's cost of education. Costs incidental to employment are those amounts in addition to taxes which are subtracted from the gross earnings to arrive at the net. These costs will include costs of transportation to and from the job, meals during the work period, and other reasonable costs incurred as expenses of employment.

*Comment.* One commenter recommended that the section be amended to include a statement of allowable costs for students engaged in a program of study by correspondence.

*Response.* The recommendation was adopted. While correspondence schools may technically comply with the statutory definition of an institution of higher education for purposes of participation in the Work-Study Program, it seems unlikely that such schools could comply with the statutory and regulatory provisions of the program for a number of reasons, including the problem of entering into the appropriate arrangements for employment of students

who are geographically dispersed around the country and the problem of exercising institutional responsibilities to oversee such employment. Therefore, while applications to participate will be entertained from correspondence schools, the institution's capabilities to administer such a program will be carefully reviewed in light of the special difficulties presented. Since such schools are potentially eligible, § 175.11 has been amended to include allowable costs relating to programs of study by correspondence. These allowable costs will include tuition and fees and also travel and room and board costs incurred specifically in fulfillment of a required period of residential training.

*Comment.* A number of commenters objected to the stipulation that transportation costs related to a program of study abroad could not be included as a cost of education.

*Response.* In response to the commenters' concern this section has been revised to provide that in the case of a student enrolled in an eligible program of study outside the United States his cost of education may not exceed his cost of education at the location of the campus of the institution he normally attends. In this regard institutions should also note the addition of § 175.9(c).

#### SECTION 175.12 EXPECTED FAMILY CONTRIBUTION

*Comment.* A number of commenters requested clarification of § 175.12(c) and suggested that this subsection be rephrased in more specific terms.

*Response.* The suggestion of the commenters was not adopted. In the past financial aid officers have frequently complained that the standards prescribed by the Office of Education for determining self-supporting student status did not permit them to exercise professional judgment in cases which seemed to them to warrant special consideration. In response to this frequently voiced complaint § 175.12(c) was written in general terms specifically with the intention of providing the latitude for the financial aid officer to exercise his professional judgment on a case-by-case basis.

*Comment.* One commenter suggested that the phrase "dependent children attending institutions of higher education" in § 175.12(a)(3) should be restated as "dependent children attending institutions of postsecondary education."

*Response.* The recommendation was not adopted. "Institution of higher education" is a statutory term with a specific meaning. "Institution of postsecondary education" is not included in the statute.

*Comment.* One commenter pointed out that § 176.12 of the Supplemental Educational Opportunity Grant regulations specifically includes the requirement that the financial aid officer shall take into consideration tuition incurred by dependent children attending elementary and secondary schools in determining the expected family contribution. The commenter objected to the omission of



this item in the College Work-Study regulation as creating a double standard in determining eligibility for assistance under the two programs.

*Response.* The requirement in the Supplemental Grant regulation to which the commenter refers is set forth in the authorizing statute governing that program (section 413C(a) (2) of the Higher Education Act of 1965, as amended) and therefore must be reflected in the regulations for that program. Since this category of family costs is not specifically addressed in the authorizing statute for the College Work-Study Program, it is not specifically cited in the program regulations. However, such family costs may be one of the factors considered by the financial aid officer in calculating a family's expected contribution pursuant to § 175.12(a) (4).

**SECTION 175.13 APPROVED NEED ANALYSIS SYSTEMS**

*Comment.* A number of commenters recommended that the Uniform Methodology for Measuring Ability to Pay, developed by the National Task Force on Student Aid Problems, be adopted by the Office of Education as the only acceptable method of need analysis for the College Work-Study Program.

*Response.* The suggestion was not adopted. The annual review procedures outlined in § 175.13 of the final regulations will accommodate those systems which use the Uniform Methodology. However, the Commissioner does not wish to mandate the use of the Uniform Methodology to the exclusion of all other systems.

*Comment.* Some commenters objected to the inclusion of the Basic Grants and the Income Tax methods of calculating expected family contributions as approved need analysis systems.

*Response.* The proposed regulation was not changed. The Income Tax method of calculating expected family contributions and the method used by the Basic Grants Program are only two of several such methods or systems of need analysis approved for this purpose. No institution which objects to either method is required to use it.

*Comment.* One commenter questioned the omission in § 175.13(b) of the College Scholarship Service and American College Testing Program as specifically designated approved need analysis systems.

*Response.* The Commissioner has the statutory responsibility to provide basic criteria and schedules for the guidance of institutions in making awards to needy students. Prior to 1975, the regulations governing this program had approved certain, specifically named need analysis systems, without specifying any duration for approval, and had provided for the approval of other systems which produced comparable figures for expected parental contributions. The Commissioner has concluded, however, that he should review on an annual basis such need analysis systems as are used for dependent students and should publish each year a list of those systems which

he has approved for use by institutions during the subsequent academic year. The proposed rule set forth the procedures and standards for such review and approval. The two systems cited by the commenter will be required to follow the annual review procedure applicable for all need analysis systems except Basic Grants and Income Tax.

*Comments.* One commenter suggested that the Office of Education should develop benchmarks for approving need analysis systems for independent students in a format similar to that for systems to be used with respect to dependent students. The commenter apparently assumed that any need analysis system developed for use with respect to independent students must follow the methodology of the College Scholarship Service.

*Response.* The suggestion was not adopted. At the present time the Commissioner does not plan to provide a set of criteria and schedules for the guidance of institutions in making awards to needy independent students. The elements which such a system must take into account are included in § 175.12(b) of the final regulations. To be approved by the Commissioner a proposed need analysis system for independent students must provide results which are comparable to those of currently approved systems. Although the College Scholarship Service System is among those which have received this approval, it is a misinterpretation of the regulation to assume that approval of all future systems is contingent upon their use of CSS methodology.

*Comment.* One commenter suggested that a family residence of \$25,000 or \$30,000 should not be included as an asset in computing the expected parental contribution of dependent students, and only the value of the residence in excess of that amount should be taxed as an asset.

*Response.* The suggestion was not adopted. The regulation governing the methodology for determining an expected parental contribution stipulates that only the net market or cash value of the parent's assets remaining after deduction of related debt and a standard asset reserve of \$10,000 shall be considered. Thus in the case of a parent's home, the value of the house minus the mortgage, rather than the total value of the home, would be considered in the computations of the expected parental contribution.

*Comment.* One commenter suggested that the Commissioner encourage independent research of outside agencies in the area of measuring the ability of families to contribute toward the cost of postsecondary education and incorporate the results of such research into Federal need analysis system guidelines.

*Response.* The Commissioner does encourage such independent research and would welcome with great interest the results of any such research which may be brought to his attention.

**SECTION 175.14 COORDINATION OF STUDENT FINANCIAL AID PROGRAMS, AWARD AMOUNT AND OVER-AWARD**

*Comment.* A number of commenters objected to the inclusion of expected earnings from employment other than that provided under the College Work-Study Program in the listing of resources to be taken into account in determining the student's need. Many commenters felt that since the student may, under certain conditions, borrow under the Guaranteed Student Loan Program to meet this expected parental contribution, he should similarly be able to substitute outside earnings for the amount of his expected parental contribution. Others suggested that considering such earnings as a resource would penalize the ambitious student and stifle initiative when, as a result of obtaining additional employment, he found his aid package reduced.

*Response.* The proposed regulation was not changed. While many cogent points were put forth in the commenters' objections, the overriding concern with regard to eligibility for employment under the College Work-Study Program is a need for funds to meet educational costs. Since there are seldom, if ever, enough Federal dollars available to meet the needs of all eligible applicants, the Commissioner considers it imperative to assure that no needy student, regardless of which institution he attends, is denied aid while another student, in the same or another institution receives aid in excess of his need. A far greater inequity would result if one student were to be forced to abandon his education because of lack of funds than would result from denying another student an opportunity to exceed his need.

*Comment.* A number of commenters objected to the requirement that expected earnings from employment other than that provided under the Work-Study Program be considered as a student resource because of the difficulty involved in monitoring all institutional student employment, especially in a large institution.

*Response.* With regard to the administrative burden caused by this requirement, the statute permits an institution to use a portion of the funds granted to it as a payment in lieu of reimbursement for such administrative expenses. That statutory provision is incorporated in § 175.27(b) of the regulation. In choosing to participate in this program, institutions should be aware that they are accepting an administrative burden. Section 175.14 is an attempt to specify one portion of that burden. It is felt that the requirements stated in § 175.14 in connection with the avoidance of over-awards are basic to the concept of need, which is the central concept on which this program is built. The Office of Education considers institutional employment to be one form of student financial aid. Accordingly, an award of institutional employment which exceeds need is no different than an excess award in grant or loan funds. However in recog-

tion of difficulties involved in administering this program, an institution will not be deemed to have violated this provision unless the overaward exceeds \$100.

**Comment.** One commenter suggested that § 175.14(e) should deal more explicitly with the financial aid officer's responsibility for considering earnings the student may obtain from non-institutional off-campus employment.

**Response.** As noted in the response to the previous comment, the Office of Education feels it is reasonable to expect the institution to be aware of all opportunities for institutional employment and to consider anticipated earnings from such employment as a resource available to the student in determining eligibility for assistance under the College Work-Study Program. The Office of Education recognizes, however, that the institution cannot be expected to know about non-institutional off-campus employment the student may obtain unless it is informed of such employment by the student. Therefore, the requirement set forth in § 175.14(e) extends only to resources the institution itself makes available or other resources of which it should be aware.

**Comment.** A number of commenters objected to the limitation on the use of Guaranteed Student Loans to satisfy the expected family contribution, as stated in § 175.14(c)(2) of the proposed regulation, and proposed instead that a student be permitted to substitute a Guaranteed Student Loan for the expected parental contribution in all cases. Another commenter took the opposite viewpoint arguing that a Guaranteed Student Loan should be treated as a resource in all instances.

**Response.** No change was made in the proposed rule. Under the final regulation any Guaranteed Student Loan, except one for which a needs test is required for interest benefits, may be used as a substitute for the expected parental contribution. This procedure is considered to be consistent with the legislative history of the Guaranteed Student Loan Program, since such loans are considered to be loans of convenience permitting a family to make its expected contribution over a lengthened period of time. If a needs test is required for interest benefits, need is determined by subtracting an expected family contribution plus the sum of all other financial aid from a student's cost of education. Under such a procedure it would not be proper for the Guaranteed Loan to be used as a substitute for the expected family contribution.

**Comment.** One commenter suggested that the responsibility for determining a student's eligibility for Federal interest benefits on a Guaranteed Student Loan should rest with the financial aid officer rather than the lending agency from which the loan is received.

**Response.** The commenter's suggestion relates to statutory and regulatory provisions governing the Guaranteed Student Loan Program. Therefore, the change suggested by the commenter would have to be addressed in regulations for that program.

**Comment.** One commenter suggested that the requirement set forth in § 175.14(a) of the proposed regulation concerning the appointment of an official to be responsible for coordinating the College Work-Study Program with the institution's other student financial aid programs should be put into the form of an agreement to be accepted annually by the chief fiscal officer of the institution and circulated to department chairmen and other institutional officials. The commenter felt that such an agreement would be of value to the coordinator when reductions in financial aid packages were necessary as a result of overawards caused by departmental jobs, scholarships or loans.

**Response.** The suggestion was not adopted. Section 175.14(a) of the regulation requires that each institution shall appoint an official to be responsible for coordinating the College Work-Study Program with the institution's other student financial aid programs. The Commissioner feels that an institution should have discretion to carry out this requirement as the commenter suggests or in some other appropriate manner.

**Comment.** One commenter noted that a student could receive financial assistance in an amount greater than his financial need if the institution did not take into account, when awarding his financial aid, the amount of a Basic Grant which that student would be entitled to receive.

**Response.** The commenter's point is well taken. Therefore, § 175.14(c) has been amended to include as a "resource" the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program regardless of whether the student has applied for such funds. The practical effect of this provision is that an institution shall, when calculating a student's financial aid package, automatically include in that package the amount of the Basic Grant to which that student is entitled regardless of whether he has applied for such a grant. (See also § 175.9(f) of the regulation regarding the treatment of Basic Grant entitlements.)

#### SECTION 175.15 COORDINATION WITH BUREAU OF INDIAN AFFAIRS GRANTS-IN-AID

A notice of proposed rulemaking pertaining to the coordination of Office of Education sponsored student financial aid programs with Bureau of Indian Affairs grants-in-aid was originally published in the FEDERAL REGISTER of March 7, 1975, 40 FR 19088, as a proposed amendment to the regulations for the Supplemental Educational Opportunity Grant Program. This provision was republished as § 175.15 of the notice of proposed rulemaking for the College Work-Study Program. The final regulation for the Supplemental Educational Opportunity Grant Program was published in the FEDERAL REGISTER of August 27, 1976. The final regulation for the College Work-Study Program has been changed in accordance with the comments received for the Supplemental Educational Opportunity Grant Pro-

gram. Furthermore, the comments received with regard to § 175.15 are basically the same comments received on the Supplemental Educational Opportunity Grant Program provision, and such comments were discussed in the preamble to the Supplemental Educational Opportunity Grant Program regulation.

#### SECTION 175.16 PROGRAM ELIGIBILITY

**Comment.** One commenter objected to the terms set forth in § 175.16(a)(2)(i) and (ii) under which College Work-Study funds may be used to employ students in operations for which an institution has chosen to use a contractor. These terms require that the contract between the institution and the private contractor must provide (i) that the contractor will utilize a specific number of the institution's students in carrying out the contract, and (ii) that the institution will select the students to be employed and determine each student's rate of pay.

**Response.** No change was made in the proposed regulation. The terms in the regulation cited by the commenter are intended to show that the students so employed are employees of the institution itself to the same degree as if the institution were performing the operation for which it has hired the contractor. Thus, the selection of students, the number to be employed, and the determination of their wage rate are functions which must rest with the institution.

**Comment.** Two commenters objected to § 175.16(a)(3) of the proposed regulation which prohibits College Work-Study employment in profit making activities engaged in by the institution which are not part of the institution's educational program.

**Response.** In response to the commenter's concern the final phrase in § 175.16(a)(3) has been expanded to include cultural and athletic programs of the institution as well as educational programs. The intention of this paragraph is to permit College Work-Study employment for the institution itself in any institutional facility being used for an institutional function, but to prohibit employment for the institution in profit making activities not related to the educational, cultural or athletic programs of the institution. The Commissioner deems it inappropriate for the Federal grant to an institution to be used for the employment of students in a profit making enterprise not related to the functions of the institution as an institution of higher education.

**Comment.** One commenter questioned whether the prohibition (included in § 175.16(b)(3) of the proposed regulations) on employment involving the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place of religious worship would preclude the employment of students under the Work-Study Program in summer camps operated by religious organizations.

**Response.** If sectarian instruction and/or religious worship are an integral part

of a camp program, no students may be employed at such a camp under the College Work-Study Program. This prohibition includes positions not involved in the programmed worship or instruction, such as life guards, recreation aides, etc., because the summer camp itself exists for a religious purpose; therefore no part of its operation is appropriate for inclusion under the College Work-Study Program.

*Comment.* Several commenters questioned terms in this section relating to off-campus employment, including the terms "public interest," and "reliable organization," and in general requested more specific guidance concerning eligible off-campus employment.

*Response.* Because of the multiplicity of employment opportunities with public or private nonprofit organizations this section has intentionally been written in general terms to provide latitude for the institution to develop innovative employment opportunities for its students and thereby to further one of the basic purposes of the program stated in § 175.1(b)(2) of the regulations. It is felt that the wording of this section in its current form will provide sufficient guidance to the institution while still permitting the broadest possible exercise of initiative in job development. Since each potential off-campus employer may pose new questions, institutions are urged to consult the student financial aid program staff in their regional Office of Education whenever guidance is needed.

*Comment.* One commenter suggested that the institutional responsibility relating to CWS employment for a public or private nonprofit organization implied a high degree of control over the off-campus agency and questioned its feasibility.

*Response.* The institution has the responsibility to insure that its College Work-Study Program is administered in accordance with the applicable statute and regulations. To the extent that this responsibility requires a review of the procedures of an off-campus agency at which its students are employed, such a review must be considered a part of its general responsibility for program administration. The history of the Work-Study Program over its past ten years of operation indicates that such responsibility is feasible. The Office of Education does not feel that the institutional responsibility for assuring adequate documentation of disbursements and supervision of work could constitute interference in the affairs of an off-campus employer.

*Comment.* One commenter suggested that the regulations should be amended to permit on-campus employment of Work-Study students by proprietary institutions.

*Response.* The suggestion was not adopted. Section 444(a)(1) of the Act provides that Work-Study employment may involve work for the institution itself, except in the case of proprietary institutions.

*Comment.* One commenter suggested that institutions should require each pri-

vate nonprofit organization wishing to employ students under the College Work-Study Program to include as an addendum to its written agreement with the institution (cited in § 175.16(c)(1)) a copy of the internal Revenue Service statement of approval of its tax-exempt status. Another commenter suggested that eligibility as a private nonprofit off-campus employer should be contingent upon approval of tax exempt status specifically under section 501(c)(3) of the Internal Revenue Code.

*Response.* These suggestions were not adopted. Eligible off-campus employers may include nonprofit private organizations that do not qualify for a tax exemption under section 501(c)(3) of the Internal Revenue Code. Furthermore, the Commissioner is not of the view that the type of documentation suggested by the first commenter should be required.

*Comment.* One commenter questioned whether the prohibition against the displacement of employed workers set forth in § 175.16(b)(1) would be violated if students were employed under the Work-Study Program to substitute for regular employees who are on strike.

*Response.* Section 444(a)(1)(B) of the program statute (42 U.S.C. 2754(a)(1)(B)) requires that work performed under the College Work-Study Program "will not result in the displacement of employed workers or the impairment of existing contracts for services." The Office of Education views the use of College Work-Study students to fill vacancies created as a result of a strike to be such a displacement and has amended § 175.16(b)(1) to reflect that view.

*Comment.* One commenter recommended that participating institutions should spend a greater portion of their Federal College Work-Study allocation on off-campus community service oriented jobs. To meet this objective the commenter suggested that 50 percent of all College Work-Study funds in excess of \$300,000,000 per fiscal year should be earmarked for community service activities off-campus. The commenter also provided a number of suggestions intended to encourage institutions to expand their off-campus programs in community service areas. Another commenter suggested that institutions should be required to arrange College Work-Study jobs with nonprofit community service organizations. A third commenter felt that additional emphasis should be included in the regulations on providing a worthwhile job experience for the student.

*Response.* The Commissioner disagrees with the specific proposal that 50 percent of all College Work-Study funds in excess of \$300,000,000 per fiscal year should be earmarked for community service activities off-campus because of the disadvantage such an action would create for those students at institutions which find it difficult to operate off-campus programs. There is also a serious legal question as to whether the Commissioner would have the statutory authority to require that nonproprietary institutions

provide any off-campus employment for their students.

With respect to the suggestion that additional emphasis be included in the regulations on providing worthwhile job experiences for students, it should be kept in mind that one of the program objectives set forth in § 175.1 of the regulations is the broadening of the range of worthwhile job opportunities for qualified students in employment for the institution itself (except in the case of proprietary institutions) and for public and private nonprofit organizations. However, the determination as to what constitutes a "worthwhile job opportunity" in the case of an individual student involves subjective judgments which could only be made by officials of the institution and the student, taking into account the student's goals and the various possibilities for employment under the program.

SECTION 175.17 ELIGIBLE EMPLOYMENT

*Comment.* A number of commenters objected to § 175.17(b) of the proposed regulation which stipulated that work performed for the institution itself by which the student satisfies a requirement of a degree or certificate shall not be considered eligible employment under the College Work-Study Program. A number of commenters cited examples in which a student could be receiving credit at his institution for a particular job performed for a public or private nonprofit organization off-campus, but the same credit-bearing work on-campus would be ineligible as College Work-Study employment.

*Response.* The intention of the proposed regulation was to prevent an abuse of the program in which students would receive pay for attending classes. However, the Office of Education recognizes the merit in the points raised by the commenters. In response to their concern, § 175.17(b) has been rewritten to permit employment for the institution itself in work which satisfies a requirement of a degree or certificate while still attempting to prevent any potential abuse cited above. However, in no event may students be paid for receiving instruction in a classroom, laboratory, or other academic setting.

*Comment.* One commenter suggested that the criteria for determining eligible employment set forth in § 175.17(a) of the proposed regulation seemed to conflict with the requirement that employment under the program must not result in the displacement of employed workers or the impairment of existing contracts for services.

*Response.* The Office of Education does not feel the two clauses cited by the commenter are in conflict and no change was made in the wording of the final regulation. The criterion for determining eligible employment in § 175.17(a) is an attempt, through a test of comparability, to determine whether a particular position can legitimately be considered "work."

#### SECTION 175.18 ESTABLISHMENT OF WAGE RATES

*Comment.* A number of comments were received concerning the absence in the proposed regulations of a maximum wage rate for employment under the College Work-Study Program. Some commenters agreed with its omission and felt the determination should be left to the institution. However, a majority objected to its omission and felt a maximum wage rate should be established by the Office of Education and included in the regulations. Another suggested that it should be set annually by the Commissioner.

*Response.* It has been determined that there is no legal authority for the Office of Education to impose a maximum wage limitation.

*Comment.* One commenter suggested that the minimum wage rate permitted under the program should be set at \$3.00 per hour.

*Response.* The commenter's suggestion was not adopted. The Commissioner is of the view that the minimum wage rates set out in the regulation which parallel the Federal minimum wage law are more appropriate.

*Comment.* Several commenters objected to the inclusion in the regulations of a minimum wage rate schedule higher than the subminimum wage which institutions are permitted to pay full-time students under the Fair Labor Standards Amendments of 1974 after receiving permission from the Secretary of Labor. Some commenters added that this requirement would create a situation in which College Work-Study students would receive higher pay for the same work than students in institutional employment programs. Others felt that the requirement that an institution seek approval from the Commissioner of Education in order to employ full-time students at the subminimum wage rate under the College Work-Study Program imposed an unwarranted duplication of effort upon the institution.

*Response.* In response to the commenters' objections, the final regulation has been changed to provide that if the Secretary of Labor has established a subminimum wage rate under provisions of the Fair Labor Standards Act for any category of students at an institution, such subminimum wage rate shall be the minimum wage rate for that category of students who are employed under the College Work-Study Program at that institution. It should be noted, however, that while the College Work-Study Program permits participation by students enrolled on at least a half-time basis, the subminimum wage provisions of the Fair Labor Standards Amendments of 1974 are addressed to the employment of full-time students only. Since institutions must make jobs under the program reasonably available to all needy students, there is the possibility of a situation in which full-time students and half-time students would receive different rates of pay for the same work.

*Comment.* One commenter assumed that the minimum wage rates stated in

§ 175.18(b) of the proposed rule would be required to be paid retroactively to the dates stated, if this section were to appear in the final regulations. With this assumption in mind the commenter suggested that the new minimum not be made effective until the coming academic or fiscal year.

*Response.* The suggestion was not adopted. Contrary to the commenter's assumption, the minimum wage rates included in § 175.18(b) (1) become applicable as of the effective date of the regulation. The wording of the final regulation has been revised to eliminate citations to dates occurring prior to its publication.

#### SECTION 175.19 LIMITATION ON THE NUMBER OF HOURS OF EMPLOYMENT

*Comment.* Many commenters objected to the inclusion in this section of the stipulation that during periods when a student's classes are in session the student may not work more than an average of 20 hours per week averaged over the period of enrollment for which the College Work-Study award was received. (One commenter endorsed the proposed limitation.) A number of commenters who objected felt that although few students would work more than 20 hours per week during periods when they were enrolled in classes, the financial aid officer should have the option to permit a greater number of hours in instances where the student's need, academic schedule, and other factors seemed to warrant it. Others felt that the proposed regulation would limit a student to an average of twenty hours per week if he were to enroll in a class or two during his summer vacation period. Many of the commenters argued that since Congress had, in the Education Amendments of 1972, removed a fifteen-hour average without replacing it with a higher average maximum number of hours, the insertion of a twenty-hour limitation was a violation of Congressional intent.

*Response.* In response to the concern expressed by the financial aid community at large on this issue, the final regulation has been revised to provide that, in exceptional circumstances, a student may be employed under the program for more than twenty hours per week during periods when his classes are in session. The financial aid officer may determine that such exceptional circumstances exist if, after considering all of the student's resources and all other financial aid the institution can make available to him, his need remains so great that it cannot be met with earnings from a job of twenty hours per week and that such extra work will not have a deleterious effect on his health and academic progress.

#### SECTION 175.20 EARNINGS ATTRIBUTABLE TO COST OF EDUCATION

*Comment.* Many commenters objected to the requirement in the proposed regulation that costs incidental to obtaining earnings under the program during summer vacation periods or other such periods when the student is not enrolled in

classes may not exceed 20 percent of the student's gross income or \$200, whichever is less. A substantial number of commenters argued that such a limitation would eliminate opportunities for summer employment especially for independent students and for those dependent students who lived away from home during periods in which their classes were not in session. Many alternatives were proposed for regulating the amount of maintenance costs which could be permitted from College Work-Study earnings and for differentiating between the amount to be allowed for dependent students living with parents and for independent students and dependent students not living with their parents.

*Response.* The Office of Education recognizes that a portion of a student's summer College Work-Study earnings will of necessity be required for summer maintenance costs. At the same time, however, it must be kept in mind that the purpose of this program as stated in the authorizing statute is to promote the part-time employment of students who are in need of earnings from such employment to meet their cost of education. If a substantial portion of a student's summer College Work-Study earnings were to be dissipated through summer maintenance expenses, this fundamental purpose for which the program was established would not be achieved. Normally, any dependent student employed under the program during his summer vacation period should be placed in a job which will permit him to live with his parents. In such a situation the limitation on expenditures for maintenance costs included in the proposed regulation is not unrealistic. In some instances, such as in the case of a student from a rural area, no employment opportunities may exist within commuting distance of his parents' home and in such cases a higher allowance for maintenance costs may be warranted.

In the case of an independent student whose need is analyzed on the basis of a twelve-month budget, the costs the student incurs during a summer vacation period are included in the computation of his need, and therefore should not be deducted from the amount he earns for that period.

The limitation on the amount of College Work-Study earnings which may be expended as costs incidental to obtaining employment during summer vacation periods or other periods of non-enrollment has been held at the level stated in the proposed regulation, except that the financial aid officer has been given the option to permit a higher level of such costs under exceptional circumstances. In such instances, as for example where the student is unable to live at home, the student's actual incidental costs may be deducted, except that in no event may such costs exceed 40 percent of gross earnings or \$400, whichever is less.

#### SECTION 175.21 PAYMENTS TO STUDENTS

*Comment.* One commenter requested clarification of the use of payments in kind to students under the program.

*Response.* The institution may contribute its share of the compensation of any student employed under the College Work-Study Program in the form of services and equipment provided by the institution to that student employee. Any such payment must be supported by adequate documentation. In no case may any such payment consist of remittal of a charge assessed against the student exclusively because of his employment under the College Work-Study Program. Examples of permissible noncash payments include forbearance in the collecting of tuition or any portion thereof, room and board charges or any portion thereof, fees normally charged to all students, and the provision of books and supplies which are not normally furnished free of charge.

If the amount of the institution's non-cash contribution is less than the required institutional share of the student's gross earnings, the institution must contribute in cash the difference between the required share of the student's gross earnings and the actual noncash contribution.

If the institution's noncash contribution to any one student in any one pay period exceeds 20 percent of that student's earnings in that pay period, the balance may be claimed as a noncash contribution toward that student's earnings during any subsequent pay period. For example, the institution may carry as a receivable all of a student's tuition for one semester and claim a noncash contribution equal to its share of that student's gross compensation for each pay period until the total of such shares equals the amount of tuition receivable.

All amounts claimed as noncash contributions must be supported by adequate documentation, such as acknowledgment of receipt, signed by the student employee to support an amount credited to his account.

*Comment.* Two commenters objected to the requirement in § 175.21(c) of the proposed regulation that the institution obtain from the student a written acceptance of the award and the terms under which it is granted. Both commenters felt the requirement imposed an unnecessary administrative burden on the institution. One commenter suggested that, in a community college with an open-door admission policy permitting late enrollment, the requirement would cause an undue postponement in the CWS student's assumption of his duties and result in an inconvenience to the employer, or cause the employer to look elsewhere to fill a position. Another comment was that since such a statement was not required for regular institutional student employment it resulted in a form of discrimination against needy, low-income students employed under the College Work-Study Program.

*Response.* The proposed regulation was not changed. The requirement set forth in § 175.21(c) provides the institution with a written acknowledgement that the student is aware of the rights and obligations of his award under the College Work-Study Program. The requirement is similar to one set forth in

§ 176.17(b) of the Supplemental Grant regulations and in § 144.15 of the proposed National Direct Student Loan regulations and in § 144.15 of the proposed into the student's general statement of acceptance of the aid package.

**SECTION 175.22 LIMITATION ON THE FEDERAL SHARE OF STUDENT COMPENSATION**

*Comment.* One commenter questioned whether § 175.22(c) (1) (iii) authorized the assessment of an administrative fee to off-campus College Work-Study employees.

*Response.* The commenter's question appears to result from a misreading of this section. As indicated by the term "such organization" in § 175.22(c) (1), the costs of administration in excess of three percent cited in § 175.22(c) (1) (iii) may be recovered from the off-campus public or private nonprofit organization employing the student, if the off-campus organization agrees to pay such costs. No fee, compensation, or gratuity of any kind may be solicited or accepted from any student as a consideration or prerequisite for employment under the College Work-Study Program. This prohibition is set forth in § 175.23(b) of the regulations.

*Comment.* A number of commenters requested clarification of the meaning of § 175.22(d) and several questioned the statutory authority for including it.

*Response.* The paragraph questioned by the commenters is intended to prohibit an institution from making a profit on the off-campus portion of its College Work-Study Program. Section 441(a) of the Act states that the purpose of the Work-Study Program is to stimulate and promote the part-time employment of students who are in need of earnings from such employment to pursue courses of study at eligible institutions. It is not a purpose of the program to provide a source of profit for the institution. Section 444(a) (8) authorizes the Commissioner to include in his agreement with each participating institution such other provisions as he deems necessary or appropriate to carry out the purposes of this part. This paragraph of the regulations is intended to provide that any excess funds received from an off-campus agency shall be used either as later payments for students or to reduce the Federal share. The paragraph has been revised to clarify this intent.

*Comment.* One commenter described a situation in which off-campus agencies employing students would deposit funds at the beginning of the fiscal year with an institution to be held in trust by the institution and used to provide the 20 percent non-Federal matching share plus necessary employer costs. Under the arrangement, any funds remaining with the institution at the end of the fiscal year were to be carried over to the next fiscal year and supplemented by an additional contribution from the off-campus agency sufficient to continue to provide a 20 percent non-Federal matching share plus employer costs. The commenter questioned whether § 175.22(d) would prohibit such a carryover arrange-

ment and require that the Federal share of student compensation paid to students employed by off-campus agencies be reduced by the amount of the off-campus agency funds which remained on deposit at the institution at the close of the fiscal year.

*Response.* The carryover of off-campus agency funds held on deposit by the institution in the arrangement described by the commenter is not prohibited by § 175.22(d), nor is the refunding of any excess contributions to the off-campus agency.

*Comment.* One commenter, citing § 175.22(e) of the proposed regulation, requested a clarification of the procedures to be followed by an institution for requesting a Federal share in excess of eighty percent as a "developing institution."

*Response.* No change was made in the proposed regulation. No additional procedures for applying for a Federal share in excess of eighty percent will be required, since such a request will be part of the regular application process.

*Comment.* One commenter objected to the use of a standard based on parental income in determining institutional eligibility for a Federal share in excess of eighty percent under § 175.22(e) (1) (ii). The commenter felt that a criterion based on parental income would work to the disadvantage of institutions having a large percentage of self-supporting students.

*Response.* The regulation was not changed. The criterion in § 175.22(e) (1) (ii) stipulates that the Commissioner may approve a Federal share in excess of eighty percent if an institution demonstrates that at least fifty percent of its students enrolled on at least a half-time basis have parents whose annual adjusted gross income does not exceed \$7,500 per year. This regulation is intended to provide an opportunity for institutions with a large proportion of students from historical conditions of great financial need to obtain additional Federal funds to meet the needs of those students. This regulation is based on an assumption that institutions with large proportions of such students typically and usually experience greater difficulty in raising funds to provide the institutional share of College Work-Study expenditures than do institutions whose students come from more prosperous families.

**SECTION 175.25 MAINTENANCE OF EFFORT**

*Comment.* One commenter questioned whether, in computing maintenance of effort, an increase in a program of State grants directly to students could compensate for a reduction in an institutionally administered grant program at a State supported institution. Another commenter suggested that because of necessary institutional administrative involvement in the administration of State scholarship programs, funds from such programs should be included as institutional funds in maintenance of effort calculations even when the selection of recipients is made by a State agency.



## RULES AND REGULATIONS

*Response.* Section 494 of the Act sets forth a maintenance of effort requirement for the institution "in its own scholarship and student aid program." The purpose of this requirement is to insure that financial aid provided under the Work-Study Program will supplement, rather than replace, existing institutional student assistance programs. To be considered as part of its "own scholarship and student aid program" a source of aid must be under the control of the institution. As an index of determining institutional control the Office of Education asks whether the institution has responsibility for selecting the recipients and determining the amount of aid each will receive. Funds from a State scholarship program may be considered as institutional funds and included in maintenance of effort calculations in those instances where the institution chooses the recipients and determines the amount each recipient will receive. A program of State grants directly to students in which the institution did not choose the recipient or determine the amount of the grant would not be included in maintenance of effort calculations and therefore would not compensate for a reduction in amounts awarded from institutional programs.

*Comment.* One commenter suggested that the regulation should include provision for waiver of the maintenance requirement for public institutions when appropriations supporting such institutions are reduced.

*Response.* No change was made in the regulation. The intent of the maintenance of effort provision is to prevent Federal funds from being substituted for other funds, including other public funds.

*Comment.* One commenter suggested that the institutional matching share required for Federal student aid programs should be specifically included as "institutional funds" for maintenance of effort calculations.

*Response.* No change was made in the regulation. It is felt that the more all-inclusive terminology in § 175.25(d) is sufficient to indicate that the matching amounts cited by the commenter are to be included in maintenance of effort calculations.

*Comment.* One commenter recommended that Federally Insured Student Loans made by institutions be exempt from inclusion in maintenance of effort calculations if the capital for such loans was acquired from non-institutional sources such as loans from organizations external to the institution.

*Response.* The suggestion was not adopted. Provision is included in § 175.25(b)(2) of the regulation for the institution to substitute alternate sources of aid in an amount equal to the average annual amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during its 3-year base period.

In addition to the above question, the Commissioner has altered the language in § 175.25(b)(2) concerning a maintenance of effort waiver when the institution no longer participates as a direct lender in the Guaranteed Student Loan Program. This revision is made in order to clarify the point that such a waiver is to be granted by allowing an institution to maintain its three-year average through the inclusion of alternate sources of financing which normally would not be considered as institutional scholarship or student financial aid, rather than by permitting the institution to maintain a level of effort which is lower than its three-year average.

### SECTION 175.26 TRANSFER OF FUNDS

*Comment.* One commenter recommended that the 10 percent transfer option cited in § 175.26 be expanded to include the National Direct Student Loan Program, as well as the College Work-Study and Supplemental Grant Programs.

*Response.* No change was made in the regulation. Section 496 of the Higher Education Act authorizes the transfer of funds only between the Work-Study and Supplemental Educational Opportunity Grant Programs. It does not include the National Direct Student Loan Program.

*Comment.* Two commenters suggested the inclusion of a regulation permitting a deficit expenditure to be recovered in the next fiscal year or a carryover to the next fiscal year of up to 10 percent of the institution's Federal Work-Study allocation.

*Response.* The suggestion was not adopted. The Commissioner lacks statutory authority to permit a deficit expenditure of a Federal College Work-Study allocation. If an institution has an unexpended balance in its Federal College Work-Study allocation for a given fiscal year, the unexpended amount will be reallocated to other institutions in the State.

### SECTION 175.27 USE OF FUNDS

*Comment.* Several commenters objected to the three percent administrative expense allowance as inadequate and recommended that it be increased to five percent. One of the commenters suggested that the funds should be specifically earmarked solely for the administrative use of the institution's financial aid office.

*Response.* These suggestions were not adopted. Section 493 of the Higher Education Act sets the percentage of the administrative expense allowance, and provides that the funds are a payment in lieu of reimbursement for an institution's administrative expenses in operating the Work-Study Program. Since the amount is a payment for expenses presumed to have already been met by the institution, there is no requirement that the funds be spent for the same purpose for which the original expenses were incurred.

### SECTION 175.28 FISCAL PROCEDURES AND RECORDS

*Comment.* A number of commenters objected to the five-year period of retention of records set forth in § 175.28(c)(2) as excessive. Some commenters questioned whether it would be permissible to dispose of records in a shorter period of time if they had been reviewed in a Federal audit and all audit questions were considered resolved by the Office of Education.

*Response.* The proposed regulation was not revised. The period of record retention is identical to the record retention requirements in section 434(a) of the General Education Provisions Act (20 U.S.C. 1232c(a)).

*Comment.* A number of commenters suggested that the requirements set forth in § 175.28(d) that program transactions be audited no less frequently than once every two years should be accompanied by a prescribed audit format and a procedure for reimbursing the institution for the cost of the audit.

*Response.* In response to the commenters' concern § 175.28 has been revised to require that the audit format prescribed by the DHEW Audit Agency shall be used in official audits of the institution's College Work-Study Program. Copies of this format may be obtained from the DHEW regional office serving the institution. While the Office of Education recognizes the validity of institutional complaints concerning the cost of a program audit, the authorizing statute does not permit the recovery of such costs in excess of the three percent payment in lieu of reimbursement for administrative expenses cited in § 175.27 of the regulation.

*Comment.* Several commenters questioned whether the regulations would apply retroactively and expressed concern about institutional liability for procedures not required by statute and which had not been included in previous regulations.

*Response.* The procedures for establishing the effective date of these regulations are set forth below. Prior to the effective date the institution remains responsible for administering the program in accordance with the terms of the statute and the relevant previously published regulations.

**B. Adoption of regulation.** After consideration of all comments, the Commissioner hereby adopts the proposed regulation which was published in the FEDERAL REGISTER on October 14, 1975 with the changes noted above. This regulation is set forth below.

**C. Effective date.** Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of

such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 19.463 Higher Education Work-Study (College Work-Study Program))

Dated: May 24, 1976.

T. H. BELL,  
U.S. Commissioner  
of Education.

Approved: August 13, 1976.

MARJORIE LYNCH,  
Acting Secretary of Health, Edu-  
cation, and Welfare.

Part 175 of Title 45 of Code of Federal Regulations is amended to read as follows:

- Sec.
- 175.1 Purpose and objectives.
- 175.2 Definitions.
- 175.3 Allotment of Federal funds to States.
- 175.4 Allocation, reallocation, and payment of funds to institutions.
- 175.5 Institutional applications.
- 175.6 Funding criteria.
- 175.7 Application review and approval of request.
- 175.8 Institutional agreement.
- 175.9 Eligibility and selection of students.
- 175.10 Special sessions.
- 175.11 Cost of education.
- 175.12 Expected family contribution.
- 175.13 Approved need analysis systems.
- 175.14 Coordination of student financial aid programs, award amount and over-award.
- 175.15 Coordination with Bureau of Indian Affairs grants-in-aid.
- 175.16 Program eligibility.
- 175.17 Eligible employment.
- 175.18 Establishment of wage rates.
- 175.19 Limitations on the number of hours of employment.
- 175.20 Earnings attributable to cost of education.
- 175.21 Payments to students.
- 175.22 Limitations on the Federal share of student compensation.
- 175.23 Nature and source of institutional share of student compensation.
- 175.24 Federal interest in allocated funds.
- 175.25 Maintenance of effort.
- 175.26 Transfer of funds.
- 175.27 Use of funds.
- 175.28 Fiscal procedures and records.
- 175.29 Termination and suspension.
- Appendix A Allotment of funds to States for fiscal year 1972.
- Appendix B Model off-campus agreement.

AUTHORITY: Sec. 441-446 of Pub. L. 89-329, Title IV, 79 Stat. 1219, as amended (42 U.S.C. 2751-2756), unless otherwise noted.

§ 175.1 Purpose and objectives.

(a) The purpose of the College Work-Study Program is to stimulate and promote the part-time employment of students, particularly those with great financial need, who are in need of the earnings from such employment in order to pursue courses of study at eligible institutions.

(b) This purpose will be promoted through the development of student employment programs designed to meet the following objectives:

(1) Provide financial aid for eligible students through combining the earn-

ings from part-time employment with other forms of financial assistance to enable students to meet their educational expenses without the necessity of incurring an unduly heavy burden of indebtedness; and

(2) Broaden the range of worthwhile job opportunities for qualified students in employment for the institution itself (except in the case of proprietary institutions of higher education) or for public or private nonprofit organizations.

(42 U.S.C. 2751-2756)

§ 175.2 Definitions.

For the purposes of this part:

(a) "Academic year" means a period of time generally of not less than 8 months in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, three quarters, or 900 clock hours of instruction.

(b) "Act" means Title IV, Part C of the Higher Education Act of 1965, as amended.

(42 U.S.C. 2751-2756)

(c) "Area vocational school" means—

(1) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for full-time study in preparation for entering the labor market, or

(2) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for full-time study in preparation for entering the labor market, or

(3) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for full-time study in preparation for entering the labor market, or

(4) The department or division of a junior college or community college or university which provides vocational education in no less than five different occupational fields, under the supervision of the State Board, leading to immediate employment but not necessarily leading to a baccalaureate degree—if such a school is available to all residents of the State or an area of the State designated and approved by the State Board, and if, in the case of a school, department, or division described in paragraph (3) or (4) of this paragraph, it admits as regular students both persons who have completed high school and persons who have left high school. The term "State Board" as used in this definition means a State Board for vocational education designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration thereof by local educational agencies in the State.

(42 U.S.C. 2753; 20 U.S.C. 1248)

(d) "Basic Educational Opportunity Grants Program" means the program

authorized by Title IV-A, Subpart 1 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070a)

(e) "Clock hour" means a period of time which is the equivalent of (1) a 50 to 60 minute class, lecture, or recitation, or (2) a 50 to 60 minute faculty supervised laboratory, shop, training, or internship.

(f) "Dependent student" means a student who does not qualify as a "self-supporting or independent student" as defined in paragraph (w) of this section.

(42 U.S.C. 2751-2756)

(g) "Eligible institution" or "institution" means an institution of higher education, an area vocational school, or a proprietary institution of higher education.

(42 U.S.C. 2753(b))

(h) "Expected family contribution of a dependent student" means the sum of the amounts which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 175.11 and the amount which reasonably may be expected to be made available to him by his parents for such purpose.

(i) "Expected family contribution of an independent or self-supporting student" means the amount which reasonably may be expected from the student and his spouse to meet the student's cost of education as described in § 175.11.

(j) "Financial need" means the difference between a student's cost of education and his expected family contribution.

(k) "Full-time student" means a student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(l) "Good standing" means, with regard to a student, that the institution in which the student is enrolled has determined that (1) the student is eligible, in accordance with its own standards and practices, to continue in attendance at the institution, and (2) the student is making measurable progress toward the completion of his course of study.

(m) "Graduate or professional student" means, in general, a student who is enrolled in an academic program of instruction above the college level which is provided at an institution of higher education. The term includes (1) that portion of any program involving a period of study beyond four years of study at the college level, or (2) any portion of a program leading to (i) a degree beyond the bachelor's or first professional degree, or (ii) a first professional degree, when at least three years of study at the college level are required for entrance into a program leading to such degree.

(42 U.S.C. 2751-2756)

(n) "Guaranteed Student Loan Program" means the student loan program

authorized by Title IV, Part B of the Higher Education Act of 1965.

(20 U.S.C. 1071-1087-2)

(o) "Half-time graduate student" means a graduate or professional student who is carrying any combination of courses, research, or special studies which, according to the standards and practices of the institution in which the student is enrolled, is considered half-time graduate study.

(p) "Half-time undergraduate student" means an undergraduate student who is carrying a half-time undergraduate academic work load measured in terms of (1) the tuition and fees customarily charged for such half-time study by the institution and (2) the course work or other required activities as determined by the institution in which the student is enrolled; *Provided, however,* That such source work and activities amount to the equivalent of a minimum of (i) 6 semester hours or 6 quarter hours per academic term for institutions utilizing semester, trimester, or quarter hour systems; (ii) 12 semester hours or 18 quarter hours per academic year for institutions which measure progress in terms of credit hours but which do not utilize semester, trimester, or quarter systems; or (iii) 12 clock-hours per week for institutions which utilize clock hours to measure progress.

(20 U.S.C. 1088(c)(2))

(q) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) (i) is accredited by a nationally recognized accrediting agency or association, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, or (iii) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (iv) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

The term "institution of higher education" also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (1), (2), (4), and (5) of this paragraph. For purposes of this part a one-year program of training means a program of study in which a student will receive supervised training totaling at least 900 clock hours of instruction. The term "institution of higher education" also includes any proprietary institution of higher education, as defined in paragraph (v) of this section which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees or other charges to such students.

(20 U.S.C. 1087-1(b), 1088(b) and 1141(a))

(r) "National Direct Student Loan Program" means the student loan program authorized by Title IV, Part E of the Higher Education Act of 1965.

(20 U.S.C. (1087 aa-F))

(s) "National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(8 U.S.C. 1101(a)(22))

(t) "Nonprofit" as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(20 U.S.C. 1141(c))

(u) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes, in which case such person shall be considered a parent.

(42 U.S.C. 2751-2756)

(v) "Proprietary institution of higher education" means a school which (1) provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) is not a public or other nonprofit

institution, and (6) has been in existence for at least two years. For purposes of this part a six-month program of training means a program of study, which does not include such study by correspondence, in which a student will receive supervised training totaling at least 600 clock hours of instruction, or, in the case of a program offered by correspondence, a program of study requiring at least 600 hours of preparation.

(20 U.S.C. 1088(b)(3))

(w) "Self-supporting or Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested;

(2) Has not received and will not receive financial assistance of more than \$600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested; and

(3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

For purposes of this paragraph, a student will not be considered to have been claimed as an exemption by a parent, or to have received \$600 from a parent, or to have lived with a parent if that parent has died prior to the student's submission of an application for employment under the College Work-Study Program.

(42 U.S.C. 2751-2756)

(x) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

(y) "Supplemental Educational Opportunity Grant Program" is the grant program authorized by Title IV, Part A, Subpart 2 of the Higher Education Act of 1965.

(20 U.S.C. 1070b)

(42 U.S.C. 2751-2756, unless otherwise noted)

§ 175.3 Allotment of Federal funds to States.

(a) *Initial allotments.* From sums appropriated to carry out this part for a fiscal year, not to exceed 2 percent will be allotted by the Commissioner among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs for assistance under this part. In addition to such sum, an amount will be reserved to provide Work-Study assistance to students who reside in, but attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so



reserved will be allotted to eligible institutions and shall be available only for the purpose of providing Work-Study assistance to such students. The remainder of the sums will be allotted among the States as provided in paragraph (b) of this section. For the purpose of computing this allotment, the Commissioner will use information for the most recent year for which satisfactory data are available to him.

(42 U.S.C. 2752)

(b) (1) *Initial allotment to States.* Ninety percent of the sums remaining after the allotment of funds under paragraph (a) of this section will be allotted as follows:

(i) One-third will be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States;

(ii) One-third will be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 702(f) of the Higher Education Act of 1965—formerly section 103 (d) (3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates in all the States; and

(iii) One-third will be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under 18 years of age living in families with annual incomes of less than \$3,000 in such State bears to the number of related children under 18 years of age living in families with annual incomes of less than \$3,000 in all the States.

(2) If the amount allotted to any State under subparagraph (1) of this paragraph is less than its allotment under section 442(b) of Title IV, Part C, of the Higher Education Act of 1965 for fiscal year 1972, additional sums will be allotted to each such State from the sums remaining to make its allotment for such year equal to its allotment for fiscal year 1972 under section 442(b). (See Appendix A for the amounts allotted to each State under such section 442(b) for the fiscal year ending June 30, 1972.) In the event that the funds available are insufficient to meet that level, the Commissioner will instead allot the remaining sums so that no State will receive less than a uniform minimum percentage of its fiscal year 1972 allotment under section 442(b).

(3) The Commissioner will allot the sums remaining, if any, after the allotment of funds under paragraph (a) of this section and subparagraphs (1) and (2) of this paragraph, to those State(s) which received the lowest percentage of

approved requests for funds as a result of the allotment under subparagraphs (1) and (2) of this paragraph so that no State will receive less than a uniform minimum percentage of its total approved requests for funds.

(c) *Reallotment.* The amount of any State's allotment which has not been granted to any institution at the end of the fiscal year for which appropriated will be reallotted by the Commissioner to those remaining States which received the lowest percentage of approved requests for funds under paragraph (b) of this section in such a manner that no State will receive less than a uniform minimum percentage of its total approved requests for funds.

(d) For purposes of paragraphs (b) and (c) of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(42 U.S.C. 2752)

**§ 175.4 Allocation, reallocation, and payment of funds to institutions.**

(a) *Allocation of funds to institutions.* When funds available for distribution among the institutions within a State are not sufficient to honor all approved requests of institutions within such State, such sums as are available will be distributed on a pro rata basis among all institutional applicants in the State in the same ratio that the total funds available for the State, including any reappportionments, bears to the total approved requests for that State.

(b) *Reallocation of funds.* Funds allocated to an institution which the institution anticipates will not be used by the end of the period for which such funds were made available may be reallocated on an equitable basis to other institutions in that State.

(c) *Payment of funds.* Funds will be made available for a specific period of time as determined by the Commissioner and may be payable in advance or by way of reimbursement on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(42 U.S.C. 2756)

**§ 175.5 Institutional applications.**

(a) An institution that wishes to participate in the College Work-Study Program shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such application shall contain the following information and shall be in such form and contain such other information as the Commissioner may from time to time prescribe:

(1) The institution's requests for Federal student financial aid funds under this part, the Supplemental Educational Opportunity Grant Program, the National Direct Student Loan Program, and its anticipated disbursements under the Basic Educational Opportunity Grants Program;

(2) The institution's anticipated enrollment for the forthcoming academic year;

(3) The anticipated number of enrolled students eligible for employment under the College Work-Study Program;

(4) The institution's average cost of education, including a justification of per student costs in excess of \$175 for books or \$450 for personal expenses for an academic year;

(5) The anticipated number of students to be employed by the institution;

(6) The anticipated number of students to be employed by public and private nonprofit organizations other than the institution;

(7) An estimate of the average amount which reasonably may be expected to be made available by the parents of students at the institution who are expected to be eligible for employment under this part;

(8) The anticipated amount of student need to be met through employment under this part;

(9) The amount of financial assistance awarded by the institution from its own scholarship and student aid programs for the most recent academic year for which information is available;

(10) The anticipated amount of other financial assistance available to students with financial need at the institution, such as State scholarships, Veteran's Benefits, and off-campus employment;

(11) The average unmet need per student; if the average amount of unmet need exceeds \$200, the explanation for this situation; and

(12) The qualifications of the professional personnel who will be administering the College Work-Study Program.

(b) The application shall be signed by the official authorized to submit the application and by the institution's Director of Student Financial Aid, and shall contain the name of the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds.

(c) Notwithstanding the requirements of paragraph (a) of this section, an institution may file an application omitting the information required by subparagraphs (4) (7), (10), and (11) of paragraph (a) of this section if (i) it has received an allocation under this part for at least the two academic years prior to the academic year for which assistance is requested, (ii) it is requesting not more than 110 percent of its approved request for the previous academic year, and (iii) it has filed an application containing the information required by paragraphs (a) (4), (7), (10), and (11) of this section for one of the three preceding academic years.

(42 U.S.C. 2756)

**§ 175.6 Funding criteria.**

Institutional applications for funds under this part will be reviewed in accordance with the following criteria:

(a) The reasonableness of the institution's request for Federal student financial aid funds under this part (1) in light of its requests under the Supplemental Educational Opportunity Grant Program and the National Direct

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Student Loan Program, and (2) in relation to the institution's anticipated enrollment, its average cost of education, and the average expected family contribution of its students eligible under this part;

(b) The reasonableness of the institution's projections of its anticipated enrollment and of its average cost of education and the average expected family contribution of its students eligible under this part;

(c) The reasonableness of the anticipated number of students eligible for employment under the College Work-Study Program in view of the institution's anticipated enrollment;

(d) The reasonableness of the amount of the average compensation anticipated in relation to the average need per student at the institution, after taking into account other available student financial aid resources;

(e) The extent to which the institution has effectively utilized Federal financial aid funds allocated in previous years;

(f) The adequacy of the reasons provided by the institution pursuant to § 175.5(a) (4) and (11); and

(g) The extent to which the institution has effectively administered or made provision for the effective administration of the program, including effective coordination with institutional and other programs of student financial aid. In making this evaluation, consideration will be given to the adequacy of the qualifications and experience of the personnel designated by the institution to administer the program.

(42 U.S.C. 2756)

**§ 175.7 Application review and approval of request.**

(a) (1) The Commissioner will convene panels of qualified persons in each of the regions served by regional offices of the Office of Education to review applications submitted under this part by institutions situated in those regions. The review panel shall evaluate each institution's request for funds in accordance with the criteria set forth in § 175.5 and shall recommend an amount which it deems appropriate.

(2) No panelist shall participate in the consideration of any application from his own institution or any application from any other institution which he has prepared or assisted in preparing or in which he has any personal or financial interest.

(b) Institutions which file applications for funding under this part will be notified of the amount recommended by the review panel pursuant to paragraph (a) of this section. If the amount recommended is less than the institution's request, the reasons for such a reduction will be forwarded to the institution. The institution shall notify the regional office of the Office of Education serving the area in which the institution is located of any arithmetic or other technical errors with regard to the panel recommendations. The regional office will ad-

just the recommendation to correct such errors.

(c) If an institution wishes to request a review of the panel's recommendation for other than arithmetic and technical errors it shall submit a written request for such review to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. The request for review may include additional information relevant to the recommendation. The regional office will review such requests and will notify the institution in writing of its recommendation and the reasons therefor.

(d) (1) If an institution wishes a review of the regional office recommendation made pursuant to paragraph (c) of this section, it may request a review by a national review panel. Such a national review panel shall consist of institutional student financial aid officers from each of the regions served by the Office of Education and personnel of the Office of Education.

(2) A request for national review shall be submitted in writing by the institution to the regional office of the Office of Education serving the area in which the institution is located within such time as may be specified by the Commissioner. However, no additional information beyond that given to the regional office by the institution pursuant to paragraph (c) of this section will be considered.

(3) The national review panel will review such requests and notify the institution and the Commissioner of its recommendation and the reasons therefor.

(e) The Commissioner will establish an approved level of funding (approved request) for each applicant institution taking into consideration the recommendation of the relevant panel or regional office.

(42 U.S.C. 2756)

**§ 175.8 Institutional agreement.**

(a) An institution of higher education which desires to participate in the College Work-Study Program shall enter into an agreement with the Commissioner for that purpose. Such agreement shall:

(1) Provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a public or private nonprofit organization under an arrangement between the institution and such organization, and such work:

(i) Will not result in the displacement of employed workers or impair existing contracts for services;

(ii) Will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee; and

(iii) Does not involve the construction, operation, or maintenance of so much

of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) Provide that funds received by the institution under this part will be used solely for the purposes specified in, and in accordance with, the provisions of this part;

(3) Provide that in the selection of students for employment under the College Work-Study Program preference shall be given to students with the greatest financial need taking into account grant assistance provided such student from any public or private sources;

(4) Provide that employment under the College Work-Study Program shall be furnished only to a student who—

(i) Is in need of the earnings from such employment in order to pursue a course of study at such institution (taking into consideration the actual cost of attendance at such institution);

(ii) Shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(iii) Has been accepted for enrollment at the institution as at least a half-time student or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there as at least a half-time student on an undergraduate, graduate, or professional level;

(5) Include provisions which specify that the institution will comply with the provisions of this part contained in § 175.25 relating to maintenance of effort and § 175.27 relating to costs of administration;

(6) Provide that the Federal share of compensation of students employed in the College Work-Study Program in accordance with the agreement will not exceed 80 percent of such compensation; except that, the Federal share may exceed 80 percent of such compensation if the Commissioner determines pursuant to § 175.22 that a Federal share in excess of 80 percent is required in furtherance of the purposes of this part;

(7) Include provisions designed to make employment under the College Work-Study Program, or equivalent employment offered or arranged for by the institution, reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

(8) Include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

(b) An agreement entered into pursuant to this part with an area vocational school shall contain, in addition to the provisions described in paragraph (a) of this section, a provision that a student in such a school shall be eligible to participate in a program under this part only if the student—

(1) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate; and

(2) Is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation. (20 U.S.C. 2754)

**§ 175.9 Eligibility and selection of students.**

(a) *Eligibility.* A student enrolled in an institution of higher education is eligible for part-time employment under this part if such student—

(1) Is a national of the United States, is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Has been accepted for enrollment as at least a half-time student at the institution or, in the case of a student already attending the institution, is enrolled as at least a half-time student and is in good standing as an undergraduate, graduate, or professional student.

(3) Shows evidence of academic or creative promise and is capable, in the opinion of the institution, of maintaining good standing in such course of study while employed under this program; and

(4) Is in need of the earnings from such employment in order to pursue a course of study at the institution.

(b) *Eligibility of area vocational school students.* A student enrolled in an area vocational school is eligible for part-time employment under this part if, in addition to the conditions described in paragraphs (a) (1) through (4) of this section, such student—

(1) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate; and

(2) Is pursuing a program of education or training which requires at least 6 months to complete and which is designed to prepare the student for gainful employment in a recognized occupation.

(c) *Programs of study abroad.* A student participating in a program of study abroad will be considered to be enrolled in his "home" institution if (1) the program of study abroad is arranged or approved in advance by the home institution and (2) the student's academic performance during the program of study abroad becomes a part of his permanent academic record at the home institution in the same manner as if performed at that institution.

(d) *Need.* (1) In determining whether a student is in need as described in paragraph (a) (4) of this section, the institution shall take into account the student's actual cost of education at such institution as described in § 175.11 and his expected family contribution as determined pursuant to § 175.12.

(2) A member of a religious community, society, or order who by direction of his or her community, society, or order is pursuing a course of study in an institution or who receives support and maintenance from the community, so-

ciety, or order shall be deemed not to have financial need.

(e) *Institutional responsibility.* Each institution participating in the College Work-Study Program shall be responsible for determining the eligibility of the students participating in its program regardless of whether the students will be engaged in work for the institution itself or for a public or private nonprofit organization.

(f) *Selection.* An eligible institution shall make employment under the Work-Study Program, or equivalent employment offered or arranged for by the institution, reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof. In the event that requests for employment exceed available funds, the institution shall give preference in the awarding of employment to those of its students with the greatest financial need. In determining such need the institution shall take into account grant assistance provided such student from any public or private source including grant funds which the student is entitled to receive under the Basic Educational Opportunity Grants Program, whether or not he has applied for such funds. The institution's selection procedures shall be uniformly applied, set forth in writing, and maintained in the files of the institution's office which selects student aid recipients. All applications for employment under this part shall be maintained on file by the institution as specified in § 175.28(c) (2).

(42 U.S.C. 2754)

(g) *Affidavit.* No employment may be made available under this part unless the student to whom it is made available has filed with the institution of higher education which he intends to attend, or is attending, an affidavit on a form approved by the Commissioner stating that the money attributable to such employment will be used solely for expenses related to attendance or continued attendance at such institution. The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at such institution. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(42 U.S.C. 2754; 20 U.S.C. 1088g)

**§ 175.10 Special sessions.**

(a) During a period of nonregular enrollment (special session), such as a summer or equivalent vacation period or the full time work period of a cooperative education program, a student will be eligible for employment under the College Work-Study Program if he meets the eligibility requirements of § 175.9 and (1) was enrolled and was in attendance as at least a half-time student at the institution during the preceding period of regular enrollment (regular session at that institution and

will complete his course of study during such special session or (2) will be enrolled, or has been accepted for enrollment, at the institution as at least a half-time student for the regular session following such special session.

(b) The institution may provide employment under this part to a student during a special session preceding a regular session during which the student will be studying at an eligible program of study abroad if the student otherwise meets the requirements of paragraph (a) of this section.

(c) If the institution provides employment under this part to a student during a special session in which he is not enrolled as at least a half-time student at that institution, it shall maintain a written record demonstrating that it accepted the student for enrollment as at least a half-time student during the following regular session and that the student accepted such offer; *Provided, however,* That the institution shall refrain from furnishing such employment to a student if it has evidence that he does not intend to honor his acceptance of such offer and shall immediately terminate such employment if it becomes aware of such evidence after the employment has begun.

(42 U.S.C. 2754)

**§ 175.11 Cost of education.**

(a) The amount required to enable a student to pursue his education at an institution of higher education includes amounts charged for tuition and fees, the amounts charged by the institution or the expenses reasonably incurred for room and board, books, supplies, transportation, and miscellaneous personal expenses, and expenses related to maintenance of a student's dependents.

(b) In the case of a student engaged in a program of study by correspondence, only his costs of tuition and fees shall be recognized as a cost of education for the purpose of this part; *Provided however,* That travel and room and board costs incurred specifically in fulfillment of a required period of residential training may be considered a cost of education for such a student.

(c) If a student is enrolled in a program of study outside the United States which has been determined to be an eligible program pursuant to § 175.9(c), his cost of education may not exceed his cost of education at his home campus.

(42 U.S.C. 2754)

**§ 175.12 Expected family contribution.**

(a) *Dependent students.* In determining the amount of income and net assets that should reasonably be made available by the dependent student, the student's spouse, and the student's parents to meet that student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, the student's parents, and persons for whom the parent may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student's parents;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student, the student's spouse, and the student's parents to contribute toward the student's cost of education.

(b) *Independent students.* In determining the amount of income and net assets that should reasonably be made available by a self-supporting or independent student and that student's spouse to meet such student's cost of education, the student financial aid officer shall take into consideration:

(1) Any serious illness in the family (family members include the student, the student's spouse, and persons for whom the student or spouse may claim an exemption under section 151 of the Internal Revenue Code);

(2) The number of dependent children of the student;

(3) The number of such dependent children attending institutions of higher education; and

(4) Such other circumstances as may affect the ability of the student or the student's spouse to contribute toward the student's cost of education.

(c) Upon the request of a student who does not live with his parents, who visits his parents for periods of time no longer than those which are typical for adults visiting their parents, and who does not receive from his parents gifts which exceed in value the amounts typically given by parents as incidental gifts to their adult, nondependent offspring, the student financial aid officer shall make a determination as to whether the relationship between that student and his parents is of such a nature that it is unreasonable to expect the parents to contribute toward his cost of education, regardless of their ability to do so. The student financial aid officer shall make the reasons for such determination part of the institution's written records. In any event, before making such a finding, the student financial aid officer shall make such efforts as he deems appropriate to ascertain whether the student's parents are in fact willing to contribute toward the student's cost of education.

(42 U.S.C. 2754)

**§ 175.13 Approved need analysis systems.**

(a) In order to comply with the requirements of § 175.12 of this part, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) *Dependent students.* (1) The Commissioner has approved the following systems for the purpose of § 175.12 (a), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are at-

tending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$12,500 if such assets do not include farm or business assets and \$25,000 if such assets do include farm and business assets, except that no more than \$12,500 may be deducted from non-farm and non-business assets, and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.12(a), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (A) Increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (B) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by the following calculations:

(A) From the sum of the adjusted gross income and non-taxable income of the parents, there will be deducted the amount of Federal income taxes and Social Security taxes, an allowance of 8 percent of total income for state and local taxes, and an amount required to maintain the family (exclusive of the student's maintenance during the academic year) at the Bureau of Labor Statistics consumption cost estimates at a low standard of living;

(B) To the remainder obtained in subparagraph (A) will be added 12 percent of the net market or cash value of the parents' assets remaining after deduction of related debt and a standard asset reserve of \$10,000; and

(C) The following rate schedule of expected contributions will then be applied to the sum obtained in subparagraph (B):

If the sum is—		The expected contribution is—
At least—	But less than—	
\$0.....	\$4,000	22 percent of the amount over \$0.
\$4,000.....	5,000	\$80+25 percent of the amount over \$4,000.
\$5,000.....	6,000	\$1,130+29 percent of the amount over \$5,000.
\$6,000.....	7,000	\$1,420+34 percent of the amount over \$6,000.
\$7,000.....	8,000	\$1,760+40 percent of the amount over \$7,000.
\$8,000.....		\$2,160+47 percent of the amount over \$8,000.

(iii) In developing the sample cases for the purposes of this paragraph, the Commissioner shall select only cases in

which the age of the main wage earner is 45 years and in which the elements set forth in subparagraph (2) (i) of this paragraph are generally present. Accordingly, cases will not be selected which involve medical and dental expenses, casualty and theft losses, housekeeping allowances, farm or business assets, more than one family member attending post-secondary institutions, Social Security or Veteran's benefits or any unusual family circumstance.

(iv) In comparing the output of a system submitted for approval under these regulations with the figures for the standard sample cases, an expected parental contribution of less than zero shall be treated as zero.

(v) The figures for the set of sample cases used for purposes of this paragraph shall be revised annually for inflation by adjusting the deductions for family maintenance, the \$10,000 standard deduction from assets and the rates of contribution from income and assets as necessary in such a manner that the revised standard expected contributions, expressed in constant dollars, remain constant for families with equal income and asset positions measured in constant dollars.

(c) *Independent students.* (1) The Commissioner has approved the following systems for the purpose of § 175.12 (b), with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Program;

(iii) The system of need analysis published by the College Scholarship Service;

(iv) The system of need analysis published by the Graduate and Professional Student Financial Aid Service; and

(v) The system of need analysis published by Financial Analysis Service, Inc., a division of Donley, Richardson & Associates.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.12(b), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) Increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in subparagraph (1) of this paragraph.

(d) *Application procedures for system approval.* Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant

to paragraph (b)(2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submissions shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c)(2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) *Duration of approval.* Need analysis systems approved pursuant to paragraphs (b)(1) and (c)(1) of this section are approved without a specified expiration date. A need analysis system approved pursuant to paragraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (1) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for employment under this part and in calculating the amount of such employment to be made available to a student during any academic year commencing not earlier than 9 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(42 U.S.C. 2754)

**§ 175.14 Coordination of student financial aid programs, award amount, and over-award.**

(a) *Coordinating official.* The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with

the institution's other Federal and non-Federal programs of student financial aid.

(b) *Total award.* The institution shall not award assistance under this part to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculation approved by the Commissioner pursuant to § 175.13; *Provided, however,* That in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes, but is not limited to, the amount of funds a student is entitled to receive under the Basic Educational Opportunity Grants Program, regardless of whether the student has applied for such funds, any waiver of tuition and fees, any scholarship or grant including Supplemental Educational Opportunity Grants and athletic scholarships, any fellowship or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, including any loan made under the National Direct Student Loan Program, and any expected net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of Guaranteed Loans.* (1) Except as provided in paragraph (d)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 175.13. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution if (i) the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or (ii) the amount of the loan would cause the total amount of the borrower's loan insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b)

of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for the academic year.

(e) *Administrative responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the assistance under this part is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic year and/or special session during which the student is receiving assistance under this part shall be deemed to have been known by the institution at the time of disbursement of such assistance. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including assistance under this part, exceeded that student's need by not more than \$100.

(42 U.S.C. 2754)

**§ 175.15 Coordination with Bureau of Indian Affairs grants-in-aid.**

(a) In determining the amount, if any, of College Work-Study compensation to be awarded to a student who is eligible for such employment and, in addition, is eligible for an educational grant-in-aid under a program administered by the Bureau of Indian Affairs (BIA), the institution shall observe the following practice:

(1) A "package" of student assistance will be prepared in accordance with § 175.14 for each such student from resources other than BIA grants-in-aid. In preparing such a package, the institution shall not take into consideration any BIA grant-in-aid which the student has received or is expected to receive and such package shall be consistent, as to the types and amounts of the respective awards included therein, with packages prepared for students who are not eligible for BIA grants-in-aid, who have similar levels of financial need and who are similar with respect to any other general characteristics used by the institution in preparing such packages.

(2) The amount of any BIA grant-in-aid, whether received by the student prior to the preparation of the package described in paragraph (a)(1) of this section or subsequent thereto, shall be supplementary to the package of aid from other resources, and no adjustment shall be made to such package so long as the total of such package and the BIA grant-in-aid does not exceed the institution's determination of the student's need (i.e., the difference between the student's cost of education at the institution and his expected family contribution).

(3) If the total amount of the BIA grant-in-aid, when combined with the package of other assistance prepared in accordance with paragraph (a)(1) of this section exceeds the institution's determination of the student's need, the amount of such excess only shall be deducted from the package of other assist-



ance. Except as provided for in subparagraph (4) of this paragraph, such deduction shall be done in sequence, so that such excess is first deducted from any awards, or proposed awards, in the form of loans; if an excess still remains after all such loan awards have been adjusted, deductions shall next be made from any awards, or proposed awards, in the form of work-study; if an excess still remains after all such work-study awards have been adjusted, deductions shall be made from any award, or proposed award, in the form of a grant, other than a grant under the Basic Educational Opportunity Grants Program.

(4) If requested by an eligible recipient, the sequence of deductions provided in subparagraph (3) of this paragraph may be altered if such an alteration more adequately meets the need of that student.

(b) In determining the amount of financial need of students eligible for BIA grants-in-aid, the institution's student financial aid officer is encouraged to consult with BIA area officials who are responsible for administering BIA postsecondary financial assistance programs and are familiar with the individual financial circumstances of such students.

(42 U.S.C. 2754)

#### § 175.16 Program eligibility.

(a) (1) *General eligibility of employment.* Work-Study programs conducted under this part may, except in the case of a proprietary institution of higher education, involve work for the institution itself, or work in the public interest for a public or nonprofit private organization. In the case of a proprietary institution of higher education the employment provided may involve only work performed in the public interest for a public or nonprofit private organization. For purposes of this paragraph a proprietary institution of higher education also includes any nonprofit organization owned or controlled by the proprietary institution or by the corporation, association, partnership or individual which owns or controls the proprietary institution.

(2) Work for the institution itself may include work performed in those institutional operations which are typically performed by the institution for its students but which the institution chooses to contract for, such as food service, cleaning, maintenance and security, if the contract between the institution and the private contractor supplying that service provides (1) that the contractor will utilize a specific number of the institution's students in carrying out the contract and (ii) that the institution will select the students to be employed and determine each student's rate of pay.

(3) If an institution is engaged in profitmaking activities such as the operation or rental of athletic fields, auditoriums, theaters, and parking lots and the performance of administrative functions in connection therewith, employment in connection with such activities

shall not be considered work for the institution or work in the public interest except to the extent that such employment is connected with events conducted as part of the educational, cultural, or athletic programs of that institution.

(4) *Work in the public interest.* Work in the public interest means work that is devoted to the national or community welfare rather than that of a particular interest or group. In no event shall work be considered to be work in the public interest if (i) it is primarily for the benefit of the members of a limited membership organization (such as a credit union, a fraternal or religious order, or a cooperative), rather than for the public at large, (ii) it is to be performed for an elected official other than as part of the regular administration of Federal, State, or local government or, (iii) it is work for which the political support or affiliation of the student is a prerequisite or consideration for employment.

(b) *General limitations on employment.* Employment provided under this part—

(1) May not result in the displacement of employed workers, the impairment of existing contracts for services, nor the filling of positions that are vacant because the employer's regular employees are on strike.

(2) May not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place of religious worship;

(3) May not involve any partisan or nonpartisan political activity associated with a candidate or with a contending faction or group in an election for public or party office;

(4) May not involve any lobbying on the Federal level; and

(5) Shall be governed by such conditions of employment, including compensation, as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, proficiency of the employee, and any applicable Federal, State, or local legislation.

(c) (1) *Agreement.* Work for a public or private nonprofit organization, other than work for the institution itself, must be evidenced by a written agreement between the institution and the employing organization containing the conditions of such work. (See Appendix B for a sample agreement.) The institution may enter into such an agreement only with a reliable organization with professional direction and staff.

(2) The institution will be responsible for ensuring (i) that any disbursements for work performed under such an agreement will be properly documented and (ii) that the work performed by each student will be properly supervised and in accordance with the requirements of this part.

(42 U.S.C. 2754)

#### § 175.17 Eligible employment.

(a) *General.* In order for a position to be considered eligible employment under this part, the position must be one for which the employer normally has com-

pensated other persons not employed under this part. If no other person has held or is holding that position for that employer, such a position is one for which most other employers would normally compensate persons holding that position.

(b) *Work for academic credit.* Work which is otherwise eligible employment is not made ineligible solely because it satisfies a requirement of a degree or a certificate pursued by the student.

(42 U.S.C. 2754)

#### § 175.18 Establishment of wage rates.

(a) *Wage rates.* Compensation under this part shall be computed on an hourly wage rate basis for actual time on the job. Fringe benefits may not be included as part of such wage rate. Students may not be compensated on a salary, commission, or fee arrangement.

(b) (1) *Minimum rate.* Except as provided for in subparagraphs (2) and (3) of this paragraph, the minimum rate for a student employed under the Work-Study Program shall be \$2.20 an hour until December 31, 1976, and \$2.30 an hour after December 31, 1976, or such higher minimum wage as may be required under any applicable Federal, State, or local legislation.

(2) The Commission may approve a rate of compensation lower than that established under subparagraph (1) of this paragraph if exceptional circumstances warrant a lower rate and the approval of a lower rate is not precluded by law and is consistent with and promotive of the purposes of this part.

(3) If the Secretary of Labor has established a subminimum wage rate under provisions of the Fair Labor Standards Act for any category of students at an institution, such subminimum wage rate shall be the minimum wage rate under this part for those students.

(c) The wage rate established for each Work-Study position must meet the requirements of § 175.16(b) (5).

(42 U.S.C. 2754)

#### § 175.19 Limitations on the number of hours of employment.

(a) Except as provided in paragraph (b) (2) of this section, Work-Study funds may not be used to pay a student for work of more than an average of 20 hours per week, averaged over the period of enrollment for which the student has received an award under this part during periods when classes in which the student is enrolled are in session, or for more than 40 hours per week during periods when such classes are not in session. Work during periods when such classes are not in session shall not be included in determining the 20 hour per week limitation.

(b) (1) An institution shall determine the number of hours which an eligible student may be employed under this program in accordance with its own standards and practices after considering (i) the extent of the student's financial need, and (ii) the potential harm of a particular combination of hours of work and

hours of study on a given student's health or academic progress.

(2) Work-Study funds may be used to pay a student for work in excess of an average of 20 hours per week, but not more than 40 hours per week, if the institution determines that, in spite of the financial assistance made available to the student, the student's financial need remains so great that it cannot be met from earnings from a job of 20 hours per week, and that such extra work will not impair the student's health or academic progress.

(c) An institution may utilize its own funds to employ students in excess of the limitations set forth in paragraphs (a) and (b) of this section and a public or private nonprofit organization participating in the Work-Study program may similarly utilize its own or the institution's funds to employ students in excess of such hours. However, in neither case may any portion of a student's earnings for hours in excess of such limitations be charged to funds received under this part. Any such payments shall be taken into account in determining, pursuant to § 175.14(c), the resources available to the student.

(42 U.S.C. 2754)

**§ 175.20 Earnings attributable to cost of education.**

(a) The amount of compensation earned by a student under this part to be applied against the student's cost of education shall be the difference between the student's gross earnings and any required withholding of taxes and any costs incident to obtaining such earnings.

(b) (1) Except as provided in subparagraph (2) of this paragraph, for a summer vacation period or other such period during which the student is not enrolled in any classes, costs incident to employment shall be deemed to be the lesser of 20 percent of the student's gross earnings or \$200.

(2) If a student is only able to obtain a job where his actual cost incident to employment exceeds \$200 or 20 percent of the student's gross earnings, then such student's reasonable actual costs incident to employment may be deducted from gross earnings up to a limit of \$400 or 40 percent of gross earnings whichever is less.

(c) Costs incident to employment include commuting costs between the student's home and his place of employment, the cost of meals at work, and, if the student does not live with his parents, any necessary rent and food payments.

(d) Net earnings, that is, gross earnings minus taxes and incidental expenses, shall be applied against the student's cost of education for his next period of regular enrollment at that institution.

(42 U.S.C. 2754)

**§ 175.21 Payments to students.**

(a) Payments to students shall be made at least once a month. The Federal share of each payroll disbursement must be made by check or similar instrument which may be cashed by the student on

his own endorsement without further restriction. Accounting devices or procedures which result in the direct transfer of the Federal share of student compensation to expenses or bills are not permissible. The institution is responsible for ensuring that each payroll disbursement to any student represents the net amount of wages earned under the program during the previous payroll period whether the work is for the institution itself or for a public or private nonprofit organization. Funds for personal services shall be considered to have been obligated as of the time such services were rendered.

(b) If the institution's share of a student's compensation is paid by check, it shall be disbursed to the student in conjunction with the Federal share of such compensation. If the institution's share is paid in the form of tuition, fees, services or equipment for an academic period during which the student is employed, that share shall be contributed prior to the close of the student's final pay period. If such share is in the form of prepaid tuition, fees, services or equipment for a forthcoming academic period, the institution shall, prior to the close of the student's last pay period, give the student a statement indicating the amount of such tuition, fees, services, and equipment earned.

(c) Before making employment available under this part for any year to a student, the institution shall obtain from that student a written acceptance of the employment and a signed statement indicating that the student received notice of the amount of his College Work-Study award, of the nature and source of the other student financial aid made available to him through the institution, and of the fact that continued employment under the College Work-Study Program is conditional on the recipient's maintaining good standing in the course of study he is pursuing according to the regularly prescribed standards and practices of the institution which awarded the employment and on the recipient's carrying an academic workload sufficient to qualify him as at least a half-time student during the academic year.

(42 U.S.C. 2754)

**§ 175.22 Limitations on the Federal share of student compensation.**

(a) Except as otherwise provided for under paragraph (e) of this section, the Federal share of the compensation paid to students employed under this part from funds allocated to the institution pursuant to § 175.4 shall not exceed .80 percent.

(b) The Federal share of compensation for employment under this part shall be calculated on the basis of the hourly rate paid a student for actual time on the job. The following may not be included in determining the Federal share:

(1) Compensation which results from working more than 40 hours per week;

(2) Fringe benefits such as paid sick leave, vacation pay and holiday pay; or

(3) The employer's contribution to Social Security, workmen's compensation, retirement, or any other welfare or insurance programs which must be paid by the employer on account of a student employed under this part.

(c) If the institution arranges employment for its students with a public or private nonprofit organization, the agreement under which such employment is arranged pursuant to § 175.16(c) (1) may provide for the institution to recover from such organization (i) the non-Federal share of student compensation, (ii) any required employer contributory costs such as the employer's share of Social Security or workmen's compensation insurance to the extent that such costs are paid by the institution on account of the employment of its students by the organization under such agreement, and (iii) any costs of administration incurred by the institution in administering such agreement, either directly or through an agent, to the extent that such costs exceed 3 percent of the compensation paid to students under the agreement.

(d) Any funds an institution receives for a fiscal year under agreements with various employer organizations which exceed the cost the institution incurs in paying the non-Federal share of the compensation paid to its students and in administering the Work-Study Program (after taking into account the payment it receives for administrative expenses pursuant to § 175.27(b)) shall (1) be used to reduce on a dollar for dollar basis the Federal share of compensation paid to its students, (2) be held in trust for off-campus student employment in the subsequent fiscal year, or (3) be refunded to the off-campus organization which paid those funds to the institution.

(e) (1) The Commissioner may approve for an institution, pursuant to an application filed in accordance with § 175.5, a Federal share of up to 100 percent of the compensation paid to its students employed under this part if such institution (i) is designated as a "developing institution of higher education" in accordance with the provisions of Part 169 of this title (45 CFR Part 169), or (ii) demonstrates that at least 50 percent of its students who are enrolled as at least half-time students have parents whose annual adjusted gross income does not exceed \$7,500 per year.

(2) A Federal share of 100 percent shall be applicable only to such compensation as is paid to students which is in excess of (i) the amount of compensation paid to students under this part during the twelve months ending on June 30, 1976, or (ii) for institutions not participating in the College Work-Study Program during the twelve months ending on June 30, 1976, such amount as may be specified by the Commissioner.

(42 U.S.C. 2754)

**§ 175.23 Nature and source of institutional share of student compensation.**

(a) An institution may use any source available to it to pay its share of the

compensation paid to any students employed under this part. Such share may be paid to the student in the form of services and equipment (including tuition, room, board, and books) furnished by the institution. All amounts claimed as non-cash contributions shall be supported by adequate documentation, such as a receipt signed by the student employee. In no case may any such payment consist of remittance of a charge assessed against the student exclusively because of his employment under the Work-Study Program.

(b) No institution shall solicit or accept, or permit any public or private nonprofit organization with which it has an agreement pursuant to § 175.16(c) (1) to solicit or accept, from a student or a student's parents or spouse, any fee, commission, or compensation of any kind, or the granting of a gift or gratuity of any kind, as a consideration or a prerequisite for the employment of a particular student under the program.

(42 U.S.C. 2754)

**§ 175.24 Federal interest in allocated funds.**

Funds received by an institution pursuant to this part, excluding funds authorized for administrative expenses, are to be held in trust for the intended student beneficiary. Such funds may be used only for the purposes for which they were allocated and may not be pledged or hypothecated for any other purpose.

(42 U.S.C. 2751-56)

**§ 175.25 Maintenance of effort.**

(a) For each fiscal year for which it receives an allocation of funds under this part, the institution shall continue to expend, in its own scholarship and student aid programs, an amount which is not less than the average expenditure per year made for that purpose during the three fiscal years preceding the latest of the following dates or fiscal years: (1) The effective date of any agreement required by section 443 of the College Work-Study Program (42 U.S.C. 2753) or section 407 of the Educational Opportunity Grants Program (20 U.S.C. 1067) which was in effect on June 30, 1973, (2) the fiscal year for which the institution receives or received its first allocation of funds under the College Work-Study Program, (3) the fiscal year for which the institution received its first allocation of funds under the Educational Opportunity Grants Program (20 U.S.C. 1061-1067, 1069), or (4) the fiscal year for which the institution receives or received its first allocation of funds under the Supplemental Educational Opportunity Grants Program (20 U.S.C. 1070b-1070b-3 if the institution did not participate in the Educational Opportunity Grants Program in the fiscal year immediately preceding that fiscal year.

(b) (1) The Commissioner may waive the requirements set forth in paragraph (a) of this section for a fiscal year under special and unusual circumstances, such as, where the institution's inability to expend the amount required thereunder is attributable to (i) a withdrawal

of funds from outside sources (for public institutions, public appropriations are not considered an outside source), or (ii) a decline in enrollment where the institution continued to expend in its own scholarship and student aid program on a per-enrolled-student basis an amount at least equal to the average amount expended per enrolled student during the three year base period.

(2) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular fiscal year because it withdrew as a direct lender under the Guaranteed Student Loan Program, the Commissioner may waive that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period if (i) the institution provides financial assistance to its students in an amount equivalent to the amount it is required to maintain pursuant to paragraph (a) of this section through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(3) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section for a particular fiscal year because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner prior to July 1, 1976, the Commissioner may waive that portion of the failure for each such fiscal year prior to July 1, 1976 that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period.

(4) Where an institution has failed to meet the requirements set forth in paragraph (a) of this section because its authority to participate as a direct lender under the Guaranteed Student Loan Program was withdrawn by the Commissioner after June 30, 1976, the Commissioner may waive for that fiscal year that portion of the failure that is equivalent to the average amount of loans made by the institution as a direct lender under the Guaranteed Student Loan Program during the 3 year base period. The Commissioner may also waive that amount for future fiscal years if (i) the institution provides financial assistance to its students in an amount equivalent to the amount it is required to maintain pursuant to paragraph (a) through its own scholarship and student financial aid expenditures and by arranging alternative sources of such assistance, and (ii) the amount of alternative sources that is included does not exceed the amount that the Commissioner may waive.

(5) For purposes of this paragraph the Commissioner will consider that the institution has arranged alternate sources of assistance for its students if such assistance is provided to the institution's students pursuant to a written agree-

ment between the institution and the funding source.

(6) For purposes of this section "fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

(c) In order to obtain a waiver of the maintenance of effort requirement set forth in paragraph (a) of this section for a particular fiscal year, an institution shall submit to the Commissioner a request for such a waiver and a description of the circumstances justifying such a waiver.

(d) An institution's "own scholarship and student financial aid program" includes any expenditure of institutional funds for scholarships, grants, loans, tuition and fee waivers or remissions, and employment given to students enrolled at the institution at both the graduate and undergraduate level, whether or not such students are eligible to participate in the College Work-Study or Supplemental Grant programs. Funds given to the institution from an outside source to be used for scholarships or other forms of student financial aid, but with respect to which the institution has the authority to choose the recipients and the amount such recipients will receive, shall be deemed to be institutional funds. However, funds received from Federal sources to be used for student financial aid may not, in any event, be considered as part of an institution's own scholarship and student financial aid program for purposes of paragraph (a) of this section.

(e) (1) An institution may, in accordance with its stated practice, consider scholarships and other student financial assistance given to students who are dependents of faculty members or other employees of the institution as either student financial aid or employee benefits.

(2) An institution shall include fellowships and assistantships as part of its program of student financial assistance unless it is the stated practice of the institution to consider such holders of fellowships and assistantships as members of the institution's faculty. In such a case payments under such fellowships and assistantships need not be considered financial aid.

(3) An election of treatment under subparagraphs (1) and (2) of this paragraph shall apply to both the base year period and current year expenditures. A change of treatment will be permitted only with the express written approval of the Commissioner.

(20-U.S.C. 1088c)

**§ 175.26 Transfer of funds.**

(a) An institution may transfer up to 10 percent of its allocation for a fiscal year under the College Work-Study Program to its allocation of funds for that fiscal year under the Supplemental Grants Program to be used in accordance with the provisions of that latter program. Such transferred funds may be allocated by the institution between its allocations for initial and continuing



grants as the institution sees fit. Similarly, an institution may transfer up to 10 percent of its allocation for a fiscal year under the Supplemental Grants Program to its allocation of funds for that fiscal year under the College Work-Study Program to be used in accordance with the provisions of this part.

(b) Any amount transferred pursuant to paragraph (a) of this section shall be reported on the annual Institutional Fiscal-Operations Report required by § 175.28(b) (2).

(20 U.S.C. 1088e)

§ 175.27 Use of funds.

(a) Federal funds allocated to an institution under this part may be used by the institution (1) to pay the Federal share of compensation for the services rendered by its eligible students employed in its eligible Work-Study Program, (2) as payments in lieu of reimbursement for its expenses in administering the program during the fiscal year, and (3) to transfer to the Supplemental Educational Opportunity Grant Program pursuant to § 175.26.

(b) An institution of higher education shall be entitled to use as payment in lieu of reimbursement for its administrative expenses for each fiscal year for which it receives an allocation under § 175.4 an amount equal to not more than three percent of the compensation earned by students, including the Federal share from its allocation for that fiscal year and the institutional share for both on and off-campus programs. However the aggregate amount paid to an institution in lieu of expenses for administration under this part and the Supplemental Educational Opportunity Grants Program plus the amount withdrawn for such purposes from the institution's National Direct Student Loan fund may not in the aggregate exceed \$125,000 for any fiscal year.

(42 U.S.C. 2754; 20 U.S.C. 1088b)

§ 175.28 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) The institution shall administer the College Work-Study Program in such a manner as to provide for an adequate system of internal controls. The various administrative procedures shall be divided so as to provide for a system of checks and balances under which no person will be responsible for all aspects of the program. The functions of authorizing payment and disbursing funds shall be divided in such a fashion that no office has responsibility for both functions with respect to any particular student aided under the program.

(2) If a fiscal agent is utilized by the institution, its function must be limited solely to the performance of ministerial acts.

(3) Physical segregation of cash depositories for Federal funds which are provided to an institution is not required. However, institutions shall give notice to any bank in which they deposit Federal funds of all accounts in that bank in which such funds are deposited. This notice can be accomplished in either of the following ways:

(i) Include in the name of the account the fact that Federal funds are deposited therein; or,

(ii) Send a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(b) *Records and reporting.* (1) Each institution shall establish and maintain on a current basis, adequate records which reflect all transactions with respect to the program and shall establish and maintain such general ledger control accounts and related subsidiary accounts as are necessary to identify separately all transactions relating to the program. Such records shall:

(i) Be maintained in such a manner as to identify all program transactions separately from other institutional funds and activities;

(ii) Be reconciled no less frequently than monthly;

(iii) Include a weekly (or monthly) time record showing hours worked per day for each student. This form must contain a certification by an official of the institution (or off-campus agency) who is the student's supervisor stating that the student has worked the number of hours listed and whether the work has been performed in a satisfactory manner;

(iv) Include a payroll voucher containing sufficient information to support all payroll disbursements;

(v) Include a noncash contribution record to support by adequate documentation any payment or partial payment of the institution's share of the student's earnings which has been made in the form of services and equipment as permitted by § 175.23;

(vi) Afford ready identification of each student's account and the status thereof;

(vii) Be adequate to demonstrate the eligibility of every student aided under the program;

(viii) Indicate the amount of need determined for each student and the way that need has been met; and

(ix) Identify the institutional officer who made the determination of such need.

(2) An institution shall submit an annual Institutional Fiscal-Operations Report and such other reports and information in such form and at such times as the Commissioner may require in connection with the administration of this part and shall comply with such requirements as the Commissioner may find necessary to insure the correctness of such reports.

(c) *Retention of records.* (1) *Records.* Each institution shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with section 434(a) of the General Education Provisions Act (20 U.S.C. 1232c), including all accounting records and related original and supporting documents that substantiate costs charged to the award and such records required by § 175.9(e).

(2) *Period of retention.* Except as provided in subparagraph (4) of this paragraph, the records specified in subparagraph (1) of this paragraph shall be retained for 5 years after the date of the

submission of the annual Institutional Fiscal-Operations Report.

(3) *Microfilm copies.* An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(4) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions; provided, however, that records need not be retained if they relate to a grant with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitation in 28 U.S.C. 2415 (b).

(5) *Audit and examination.* The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in subparagraph (1) of this paragraph and to any other pertinent books, documents, papers, and records of the recipient.

(d) *Audits—non-Federal.* All of an institution's transactions involving its Work-Study Program funds shall be audited by the institution or at the institutions' direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs, and shall be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the size and the complexity of the activity of the program.

(e) Such audit reports shall be submitted to the regional office of the Department of Health, Education, and Welfare Audit Agency serving the region in which the institution is located for its review. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(42 U.S.C. 2754; 20 U.S.C. 1232c)

§ 175.29 Termination and suspension.

(a) *General.* If the Commissioner finds that any of the assurances or representations made by an institution in connection with the administration and operation of the College Work-Study Program is incomplete or inaccurate in any material respect or that there has been a failure to comply with any of the provisions of this part, he may, after giving the institution notice and an opportunity for a hearing, terminate the agreement entered into pursuant to § 175.8 or take such other actions as may be necessary and appropriate to protect the interest of the United States. The termination of the institution's participation in the program shall not affect the obligations previously incurred by either party under that agreement or this part. An obligation shall be considered to have been incurred as of the date a student worked, as specified in § 175.21(a).

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(b) *Notice of termination.* Proceedings with respect to the termination of the program shall be initiated by the mailing of a notice to the institution setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(c) *Suspension of assistance.* Subject to paragraph (e) of this section, assistance may be suspended during the pendency of a termination proceeding initiated pursuant to this section.

(d) *Notice of suspension.* If the Commissioner determines that suspension of assistance during the pendency of a termination proceeding is necessary, notice of the suspension shall be mailed to the recipient (which may be included in the notice of termination). The notice of suspension shall: (1) Inform the recipient of that determination, (2) advise the recipient of the effective date of the suspension, and (3) offer the recipient an opportunity to show cause why such action should not be taken.

(e) *Opportunity to show cause.* If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for that purpose.

(42 U.S.C. 2754)

## APPENDIX A

ALLOTMENT OF FUNDS TO STATES FOR  
FISCAL YEAR 1978

Alabama	\$5,502,879
Alaska	222,401
Arizona	2,163,160
Arkansas	3,367,696
California	19,625,311
Colorado	2,643,202
Connecticut	2,537,476
Delaware	520,542
District of Columbia	1,110,472
Florida	6,530,771
Georgia	6,390,308
Hawaii	796,559
Idaho	899,577
Illinois	13,371,320
Indiana	5,306,896
Iowa	3,925,939
Kansas	2,844,022
Kentucky	4,770,515
Louisiana	5,759,806
Maine	1,158,396
Maryland	3,549,825
Massachusetts	5,863,354
Michigan	9,157,777
Minnesota	4,773,195
Mississippi	4,885,174
Missouri	5,420,293
Montana	933,670
Nebraska	2,015,607
Nevada	335,227
New Hampshire	787,114
New Jersey	5,111,997
New Mexico	1,545,112
New York	16,923,121
North Carolina	8,181,440
North Dakota	1,087,895
Ohio	10,424,770
Oklahoma	8,822,127
Oregon	2,401,584
Pennsylvania	12,087,462
Rhode Island	995,991
South Carolina	4,483,023
South Dakota	1,185,126
Tennessee	5,864,544
Texas	14,171,730
Utah	1,532,910
Vermont	613,708

Virginia	\$5,605,999
Washington	3,641,590
West Virginia	2,934,188
Wisconsin	5,012,671
Wyoming	416,528
Outlying areas <sup>1</sup>	4,745,000
Total	\$237,400,300

<sup>1</sup> Outlying areas include Puerto Rico, Virgin Islands, Guam, American Samoa, and Trust Territory of the Pacific Islands.

## APPENDIX B

## MODEL OFF-CAMPUS AGREEMENT

(The paragraphs below are suggested as models for the development of a written agreement between an institution of higher education and a public or private non-profit organization which provides for employment of college students participating in the College Work-Study Program. Institutions and organizations may devise additional or substitute paragraphs which are not inconsistent with the statute or regulations.)

This agreement is entered into between \_\_\_\_\_, hereinafter known as the "Institution," and \_\_\_\_\_, hereinafter known as the "Organization," a (public organization), (private nonprofit organization), (strike one), for the purpose of providing work to students eligible to participate in the College Work-Study Program.

Schedules to be attached to this agreement from time to time, bearing the signature of an authorized official of the Institution and of the Organization, will set forth brief descriptions of the work to be performed by students under this agreement, the total number of students to be employed, the hourly rates of pay, and the average number of hours per week each student will be utilized. These schedules will also state the total length of time the project is expected to run, the total percent, if any, of student compensation that the Organization will pay to the Institution, and the total percent, if any, of the cost of employers' payroll contribution to be borne by the Organization. The Institution will inform the Organization of the maximum number of hours per week a student may work.

Students will be made available to the Organization by the Institution for performance of specific work assignments. Students may be removed from work on a particular assignment or from the Organization by the Institution, either on its own initiative or at the request of the Organization. The Organization agrees that no student will be denied work, or subjected to different treatment under this agreement on the grounds of race, color, national origin, or sex, and that it will comply with the provisions of the Civil Rights Act of 1964 (P.L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (P.L. 92-318) and the Regulations of the Department of Health, Education, and Welfare which implement those Acts.

(Where appropriate any of the following 3 paragraphs or other provision may be included.)

(1) Transportation for students to and from their work assignments will be provided by the Organization at its own expense and in a manner acceptable to the Institution.

(2) Transportation for the students to and from their work assignments will be provided by the Institution at its own expense.

(3) Transportation for students to and from their work assignments will not be provided by either the Institution or the Organization.

(Whether the Institution or the Organization will be considered the employer of the students covered under the agreement de-

pends upon the specific arrangement as to the type of supervision exercised by the Organization. It is advisable to include some provision to indicate the intent of the parties as to who shall be considered the employer. As appropriate, one of the following two paragraphs may be included.)<sup>1</sup>

(1) The Institution shall be deemed the employer for purposes of this agreement. It has the ultimate right to control and direct the services of the student for the Organization. It shall also determine that the students meet the eligibility requirements for employment under the College Work-Study Program, assign students to work for the Organization, and determine that the students do perform their work in fact. The Organization's right shall be limited to direction of the details and means by which the result is to be accomplished.

(2) The Organization shall be deemed the employer for purposes of this agreement. It has the right to control and direct the services of the student, not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. The Institution shall be limited to determining that the students meet the eligibility requirements for employment under the College Work-Study Program, to assigning students to work for the Organization, and to determining that the students do perform their work in fact.

(Wording of the following nature may be included, as appropriate, to locate responsibility for payroll disbursements and payment of employers' payroll contributions.) Compensation of students for work performed on a project under this agreement will be disbursed—and all payments due as an employer's contribution under State or local workmen's compensation laws, under Federal or State social security laws, or under other applicable laws, will be made—by the (Organization), (Institution), (strike one).

(Where appropriate any of the following paragraphs may be included.)

(1) At such times as are agreed upon in writing, the Organization will pay to the Institution an amount calculated to cover the Organization's share of the compensation of students employed under this agreement.

(2) In addition to the payment specified in paragraph (1) above, at such times as are agreed upon in writing, the Organization will pay, by way of reimbursement to the Institution, or in advance, an amount equal to any and all payments required to be made by the Institution under State or local workmen's compensation laws, or under Federal or State social security laws, or under any other applicable laws, on account of students participating in projects under this agreement.

(3) At such times as are agreed upon in writing, the Institution will pay to the Organization an amount calculated to cover the

<sup>1</sup> (It should be noted that although the following paragraphs attempt to fix the identity of the employer, they will not necessarily be determinative if the actual facts indicate otherwise. Additional wording which specifies the employer's responsibility in case of injury on the job may also be advisable, since Federal funds are not available to pay for hospital expenses or claims in case of injury on the job. In this connection it may be of interest that one or more insurance firms in at least one State have in the past been willing to write a workmen's compensation insurance policy which covers a student's injury on the job regardless of whether it is the Institution or the Organization which is ultimately determined to have been the student's employer when he was injured.)

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Federal share of the compensation of students employed under this agreement and paid by the Organization. Under such an arrangement the Organization will furnish to the Institution for each payroll period the following records for review and retention:

(a) Time reports indicating the total hours worked each week and containing the supervisor's certification as to the accuracy of the hours reported and of satisfactory performance on the part of the students;

(b) A payroll form identifying the period of work, the name of each student, his rate per hour, the number of hours worked, his gross pay, all deductions and net earnings,

and the total Federal share applicable to each payroll;<sup>\*</sup> and

(c) Documentary evidence that students received payment for their work, such as photographic copies of cancelled checks.

[FR Doc.76-25046 Filed 8-31-76; 8:45 am]

<sup>\*</sup> (These forms, when accepted, must be countersigned by the Institution as to hours worked and satisfactory performance, as well as to the accuracy of the total Federal share which is to be reimbursed to the off-campus organization.)

[ 4110-02 ]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 178—STUDENT CONSUMER INFORMATION SERVICES

AGENCY: Office of Education, DHEW.

ACTION: Final regulation.

**SUMMARY:** The Commissioner of Education is issuing final regulations to implement the Student Consumer Information Requirements, established by Title I of the Education Amendments of 1976, Pub. L. 94-482. The regulations establish rules and procedures whereby institutions of postsecondary education which receive administrative payments under Title IV of the Higher Education Act of 1965, as amended, will disseminate information to students concerning the academic programs of the institution and the financial assistance programs available to students for attendance at the institution.

**EFFECTIVE DATE:** Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that rules subject thereto shall become effective on the 45th day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Mr. Leo L. Kornfeld, Deputy Commissioner for Student Financial Assistance, Regional Office Building 3, Room 4682, 7th and D Streets, S.W., Washington, D.C., telephone 202-245-8595.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rule making was published in the FEDERAL REGISTER on April 8, 1977 (42 FR 18747-18750) proposing regulations governing the implementation of student consumer information services required by the amendments made to the Higher Education Act by the Education Amendments of 1976. The Commissioner invited interested persons to submit comments concerning the proposed regulations. Additionally, six public meetings were held from May 2-6, 1977 in various locations throughout the country for the purpose of soliciting public comment. The following is a summary of the comments received and the Office of Education's response.

DISCUSSION OF MAJOR COMMENTS

USE OF TERM "ACADEMIC YEAR"

**Comments.** Several commenters suggested that a term other than "academic year" be used to denote the twelve-month period beginning each July 1 and ending on the next June 30, since this is not the usual connotation of the term "academic year." Suggested terms were "fiscal year" and "award period."

**Response.** The Commissioner agrees to change the term to "award period." The Commissioner used the term "academic year" to refer to the twelve-month period because the term is so defined in the regulations for the Basic Educational Opportunity Grant Program. "Award period" was selected because it corresponds with the use of that term on award documents for the three campus-based programs—Supplemental Educational Opportunity Grants, College Work-Study, and National Direct Student Loans—and has no other connotation in the financial aid field. "Fiscal Year" was not used because the Federal fiscal year begins on October 1 and ends the following September 30.

SCOPE OF FINANCIAL AID PROGRAMS TO BE DESCRIBED

**Comments.** Many commenters objected to the inclusion of private programs in the list of student financial aid programs about which institutions must provide information; some felt that this was an unwarranted Federal intrusion, while others believed that the term is ambiguous. A few commenters objected to the inclusion of State programs in the list as well. Finally, a few commenters objected to the requirement that an institution must list each of its institutional student aid programs, particularly in the case of the institutions having a great many categorial restricted awards.

**Response.** The Commissioner concurs with the objections expressed about including information on private programs not operated by the institution and has omitted that requirement; however, he considers it reasonable to require information about State programs and has retained that requirement. He has revised the regulation to permit an institution to describe all its own student financial aid programs in a single listing.

DEFINITION OF "PROSPECTIVE STUDENT"

**Comment.** One commenter suggested that the term "prospective student" be redefined as a person who has actually applied for admission at an institution.

**Response.** The statute specifically defined the term "prospective student"; therefore, the Commissioner used that definition.

AWARD PERIOD FOR USE OF ADMINISTRATIVE COST ALLOWANCE

**Comments.** Several commenters requested that an institution be allowed to use the administrative expense allowance claimed for one award period to meet the requirements of Part 178 in the next succeeding award period.

**Response.** The Commissioner has decided that an institution may not use funds received for one award period to meet the requirements of this part for a succeeding award period because of the possibility that all the funds would be used in the subsequent period and that none would be used for the current period. However, because questions received in one period may refer to succeeding periods, the costs incurred in responding to those questions will be allowable in the current year. For example,

if a prospective student in the fall of 1977 requests information concerning financial aid in the 1978-79 academic year, the costs of responding to that question, including the preparation of material, would be an allowable expense against the funds received for the 1977-78 award period.

CLARIFICATION OF TO WHOM INFORMATION MUST BE PROVIDED

**Comments.** A few commenters questioned whether it would be required to provide the information specified in § 178.4 to all prospective students or only to those who request it.

**Response.** The Commissioner's interpretation of the statute is that the information specified in § 178.4 must be provided only to persons who request it, whether they are prospective students or enrolled students. Further, only that portion of the information that is requested need be provided. The first sentence of § 178.3 has been reworded in order to clarify these distinctions.

DEFINITION OF "APPROPRIATE PUBLICATION OR MAILING"

**Comments.** Several commenters objected to the provision in § 178.3(b) of

the proposed regulation that an appropriate publication or mailing must be available at no cost to the student or at a charge not to exceed its actual unreimbursed cost of preparation and publication. One commenter stated that this requirement constitutes over-regulation, since the statute does not state that an institution may not charge for the publication. Some commenters thought that the precise identification of costs attributable to the requirements of Part 178 would be very difficult, since this information would frequently be part of a general catalogue that contained other information not required by Part 178. Finally, a few commenters requested, if such a requirement were retained, that institutions be allowed to include the cost of mailing publications in determining the unreimbursed cost.

**Response.** In view of the many practical difficulties raised by the commenters and in consideration of the possibility of overregulation, the Commissioner has omitted in the final regulation a specific requirement that the charge to a student for information cannot exceed the unreimbursed cost of preparation and publication.

SPECIFIC FINANCIAL CONDITIONS FOR CONTINUED ELIGIBILITY

**Comments.** A few commenters objected to the requirement that the information to be disseminated must include the financial conditions which must be met for a student to remain eligible for each student financial aid program. They pointed out that the precise income and asset levels under which a family would qualify for assistance under various student financial aid programs changes from year to year. They also mentioned that the ratio of their funds available for student financial aid to the number of eligible student financial aid applicants varies from year to year. Therefore,

**CONTINUED**

**2 OF 3**

## RULES AND REGULATIONS

It might be very misleading to distribute information concerning precise financial conditions under which a student would continue to qualify for financial aid.

*Response.* The Commissioner acknowledges these difficulties and the resultant possibility of misinformation and has deleted the phrase regarding financial conditions from the final regulation.

### PROVISION OF LOAN REPAYMENT SCHEDULES

*Comments.* Several commenters stated that it was unnecessary and misleading to give a student copies of loan repayment schedules when he or she first inquires about financial aid, since this is a level of detailed information that is not likely to be useful at that time and since the statutory and regulatory conditions for repayment change from time to time.

*Response.* The Commissioner concurs with these comments and has modified that provision to require representative sample cases. For example, an institution may use as a sample a \$1,000 National Direct Student Loan or Guaranteed Student Loan and provide the student with a repayment schedule for those loans.

### ESTIMATES OF OFF-CAMPUS LIVING COSTS

*Comments.* Several commenters objected to the requirement that an institution must provide estimates of typical room and board costs, especially for students who live off-campus.

*Response.* This requirement was derived from the statute and therefore cannot be removed from the regulation. Furthermore, the Commissioner believes that institutions reasonably should have such information available, for the purposes of making individual student financial aid packages and, in the case of some institutions, applying for Federal funds to operate the campus-based programs.

### RETENTION DATA

*Comments.* Many commenters objected to the provisions in the proposed regulation regarding retention data, expressing a variety of concerns. First, many believed that students would misconstrue the meaning and implications of any retention data that were provided. Some suggested that these data not be required. Second, many comments raised questions about how to compute the retention data described in the proposed regulation, specifically with respect to whether various types of students (half-time, non-degree, graduate vs. undergraduate, etc.) should be included, and how students who move from program to program should be handled. Third, many interpreted the requirement of three years of retention data as a retroactive one and objected to it on that basis. Fourth, several commenters suggested that the Commissioner seek advice from the Association of Collegiate Registrars and Admissions Officers in developing a statement of the required retention information. Fifth, the single most frequent suggestion concerning the retention requirement is that the regulation state only that each institution should provide retention data which best de-

scribes that institution's retention rate taking into account the institution's enrollment pattern.

*Response.* The statute requires that retention data be provided; therefore, a provision for retention information is retained in the final regulation. In view of the many difficulties raised by the commenters in implementing the requirement for retention data as stated in the proposed regulation, the Commissioner has adopted the phrase suggested by many commenters listed as the fifth concern in the comment. He is requiring in addition only that the institution include a description of which types of students were included and excluded in compiling the retention information. However, the Commissioner remains concerned that the retention data be useful to students and that it enable them to make meaningful comparisons among institutions, to the extent possible. If experience reveals that the retention information provided by institutions to students is not useful, then the Commissioner will reconsider whether a more extensive statement about retention is necessary.

### COMPLETION DATA

*Comments.* A few commenters objected to the requirement that institutions provide data on the number of students completing a program because the extensive number of students who change programs or majors makes compiling this information very difficult.

*Response.* The Commissioner's regulation is derived directly from the statute and cannot be omitted. However, it should be pointed out that these provisions required only that completion data be provided to requesters if such data are available at the institution, but do not require that completion data be compiled specifically for the purpose of answering student inquiries.

### NAMES OF PERSONS TO CONTACT

*Comments.* Many commenters stated that the regulation should require only the titles, but not the names, of persons who may be contacted for information dissemination purposes, because of the relatively frequent turnover personnel.

*Response.* The Commissioner concurs, and has changed the regulation accordingly.

### WAIVER OF FULL-TIME AVAILABILITY OF AN EMPLOYEE OR GROUP OF EMPLOYEES

*Comments.* A few commenters objected to the proposed conditions under which the Commissioner would grant a waiver of the requirement that an employee or a group of employees be available on a full-time basis to carry out the specified information dissemination activities. Others suggested that the Commissioner's criteria should also include the amount of funds spent by the institution in the Basic Grant and campus-based programs.

*Response.* The Commissioner has re-evaluated this requirement and has concluded that it would be preferable not to

state specific conditions under which waivers will automatically be granted. After some experience in evaluating requests for waivers has been obtained, the Commissioner will reconsider whether such a provision is desirable.

### HOURS OF AVAILABILITY

*Comment.* One commenter stated that the provision concerning hours of availability of the employee or group of employees designated for information dissemination purposes is too directive and constitutes an unwarranted intrusion into internal administration.

*Response.* The Commissioner does not concur; he considers his statement a reasonable interpretation of the statutory requirement of full-time availability.

### IDENTIFICATION OF EXPENDITURES FOR ADMINISTRATIVE COST ALLOWANCES

*Comments.* Several commenters questioned whether it was necessary to require that funds received for administrative expenses be used to carry out the specified consumer information activities. In their view, it would be sufficient for the Commissioner to assure compliance with the student consumer information requirements, and not to be concerned with the source of funds for carrying out those requirements.

*Response.* The Commissioner's regulatory provision is derived directly from the statute; therefore § 178.6 of the proposed regulations has not been substantially changed. However, the Commissioner's interpretation of that requirement is that the institution's fiscal records must be able to demonstrate (1) that the amount spent to carry out the student consumer information activities during any award period equals or exceeds the administrative cost allowances received for that period, or (2) that, if the amount required to carry out student consumer information activities is less than the administrative cost allowances received, an amount at least equal to the difference was spent for other costs of administering Title IV student financial aid programs at that institution.

### ACCESS TO RECORDS

*Comments.* Two commenters objected to the provision in § 178.7(c) that Federal officials have access to "any other pertinent documents, papers, and records of the institution" because they found it unnecessarily broad and potentially intrusive.

*Response.* This language is copied from equivalent sections of the regulations for the campus-based programs and is considered necessary to insure that Federal officials will have access to any pertinent documents for the purpose of audit and examination.

### SCOPE OF AUDIT

*Comments.* Many commenters stated that no audit examines all transactions and that the language of § 178.8 should be changed.

*Response.* The Commissioner concurs and has changed this language.

**NOTE.**—The Office of Education has determined that this document does not contain a major proposal requiring preparation

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## RULES AND REGULATIONS

of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number: 13.532, Basic Educational Opportunity Grant Program; 13.418, Supplemental Educational Opportunity Grant Program; 13.453, College Work-Study Program; 13.471, National Direct Student Loan Program; and 13.450, Guaranteed Student Loan Program.)

Dated: September 1, 1977.

JOHN ELLIS,  
Acting Commissioner of Education.

Approved: November 18, 1977.

HALE CHAMPION,  
Acting Secretary of Health, Education, and Welfare.

1. Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new Part 178, which reads as follows:

- Sec.
- 178.1 Purpose and scope.
  - 178.2 Definitions.
  - 178.3 Information dissemination requirements.
  - 178.4 Information dissemination topics.
  - 178.5 Availability of employees for information dissemination purposes.
  - 178.6 Use of funds.
  - 178.7 Compliance procedures and records.
  - 178.8 Audits—non-Federal.

**AUTHORITY:** Sec. 493A of Title IV of the Higher Education Act of 1965 as added by sec. 131 of Pub. L. 94-422, 90 Stat. 2143-2149 (29 U.S.C. 1023b-1), unless otherwise noted.

### § 178.1 Purpose and scope.

This part establishes rules for the dissemination of information required by section 493A of the Higher Education Act of 1965. It applies to any institution or school which receives a payment under section 411(d), 428(e), or 493 of that Act (20 U.S.C. 1070a(d), 1078(e) and 1088b). Section 411(d) refers to payments made to an institution of higher education under the Basic Grant Program. Section 428(e) refers to payments to an eligible institution under the Guaranteed Student Loan Program. Section 493 refers to payments received by an institution of higher education because of its participation in the Supplemental Educational Opportunity Grant, College Work-Study, or National Direct Student Loan Programs and to payments received by an area vocational school because of its participation in the College Work-Study Program.

(20 U.S.C. 1089b-1.)

### § 178.2 Definitions.

As used in this part: (a) "Act" means the Higher Education Act of 1965, as amended.

(b) "Administrative cost allowance" means the payment to any institution pursuant to section 411(d), 428(e), or 493 of the Act.

(c) "Award period" means the period of time between July 1 of one year and June 30 of the subsequent year.

(d) "Institution" means an institution of higher education as defined in section 201(a) of the Act, a proprietary institution of higher education as defined in section 491(b) of the Act, an eligible institution as defined in section 435 of the

Act, or an area vocational school as defined in section 195(2) of the Vocational Education Act of 1963.

(e) "Prospective student" means any individual who has contacted an institution requesting information for the purpose of enrolling at that institution.

(20 U.S.C. 1088b-1.)

### § 178.3 Information dissemination requirements.

Each institution which receives an administrative cost allowance for any award period shall, for that award period, (a) prepare material, if necessary, on the topics set forth in § 178.4 and (b) disseminate that information, or any requested portions of that information, to enrolled or prospective students who request all or part of that material.

(20 U.S.C. 1088b-1.)

### § 178.4 Information dissemination topics.

The information to be prepared and disseminated to students includes:

(a) (1) A description of all student financial aid programs available to students who enroll at that institution that provide assistance to students to meet the cost of attending that institution. These programs include the Guaranteed Student Loan type program and programs for which the primary criterion of student eligibility is demonstrated financial need for the assistance because of the financial condition of the student or the student's family.

(2) For purposes of compliance with this section, the institution must describe:

(i) Programs authorized under Title IV of the Act.

(ii) Programs administered by the State in which the institution is located, and

(iii) The institution's own programs of student financial aid. The institution may, at its option, describe its own programs by listing them by general categories.

(3) The institution must describe for these programs the procedures and forms for applying for such aid, the student eligibility requirements, the criteria for selecting recipients from the group of eligible applicants, and the criteria for determining the amount of a student's award;

(b) A statement of the rights and responsibilities of students receiving financial aid under the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan, or Guaranteed Student Loan Programs. This information includes:

(1) Criteria for continued eligibility for each program;

(2) Criteria for determining that a student is in good standing and maintaining satisfactory progress in his course of study, as required by Section 497(e) (1) of the Act for the purposes of receiving financial aid payments, and the criteria by which a student who has failed to maintain satisfactory progress or good standing may reestablish his eligibility for payment;

(3) The means by which payment of awards will be made to students and the

frequency of such payments;

(4) The terms of any loan received by a student as part of his student financial aid and sample loan repayment schedules for sample loans; and

(5) The general conditions and terms applicable to any employment provided to a student as part of his financial aid;

(c) The cost of attending the institution, including tuition and fees, books and supplies, estimates of typical room and board and transportation costs for students living on-campus, off-campus, or at home, and any additional cost of the program in which the student is enrolled or expresses a specific interest;

(d) The refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost paid to that institution as described in paragraph (c) of this section;

(e) The academic program of the institution, including the current degree programs and other educational and training programs; the instructional, laboratory, and other physical facilities which relate to the academic program; and the faculty and other instructional personnel;

(f) Data regarding student retention which takes into account the enrollment pattern of that institution, including a description of the types of students that were included and excluded in compiling the retention information;

(g) The number and percentage of students completing the program in which a student is enrolled or expresses interest, if such data are available at the institution; and

(h) The titles of persons designated under § 178.5 and information regarding how and where such persons may be contacted.

(20 U.S.C. 1088b-1.)

### § 178.5 Availability of employees for information dissemination purposes.

(a) Except as provided in paragraph (b) of this section, each institution which receives an administrative cost allowance for any award period shall designate, for that award period, an employee or group of employees who shall be available on a full-time basis to assist students or prospective students in obtaining the information specified in § 178.4. If the institution designates one person, that person shall be available, upon reasonable notice, to any interested student or prospective student throughout the normal administrative working hours of that institution. If more than one person is designated, their combined schedules shall be arranged in such a manner that at least one of them is available, upon reasonable notice, throughout the normal administrative working hours of that institution.

(b) *Waiver.* (1) The Commissioner may waive the requirement set out in paragraph (a) of this section for an institution that submits a timely application for the waiver when the total enrollment, or the portion of the enrollment participating in student financial aid programs authorized under Title IV of the Act (the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, College Work-Study,



National Direct Student Loan, Guaranteed Student Loan, and State Student Incentive Grant Programs), is too small to necessitate the availability of an employee or group of employees on a full-time basis. In determining whether an institution's total enrollment or the number of recipients of Title IV assistance is too small, the Commissioner will consider whether there will be an insufficient demand for information dissemination services among its students or prospective students to necessitate the full-time availability of an employee or group of employees.

(2) The granting of a waiver under subparagraph (1) of this paragraph does not exempt an institution from designating a specific employee or group of employees to carry out the provisions of this section.

(20 U.S.C. 1008b-1.)

#### § 178.6 Use of funds.

Any institution which receives an administrative cost allowance for any award period shall first use such funds to carry out the provisions of this part for that award period. If any funds remain, the institution shall use those funds for other costs of administering the student financial aid programs authorized under Title IV of the Act for that award period.

(20 U.S.C. 1088b-1.)

#### § 178.7 Compliance procedures and records.

(a) *Retention of records.* Each institution which receives an administrative

### RULES AND REGULATIONS.

cost allowance for any award period shall keep intact and accessible all records relating to the receipt and expenditure of Federal funds in accordance with Section 434(a), General Education Provisions Act (20 U.S.C. 1232c), including all accounting records and related original and supporting documents that substantiate costs, for a period of five years after the close of the award period for which the payments were received, except as provided in paragraph (b) of this section.

(b) *Audit questions.* The records involved in any claim or expenditure which has been questioned by audit shall be further retained until resolution of any such audit questions: *Provided, however,* That records need not be retained if they relate to a payment with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitations in 20 U.S.C. 2415(b).

(c) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in paragraph (a) of this section and to any other pertinent documents, paper, and records of the institution.

(20 U.S.C. 1088b-1, 1232c.)

#### § 178.8 Audits—non-Federal.

(a) A comprehensive audit of an institution's transactions relating to its

use of administrative cost allowances received shall be performed by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. If the institution participates in the Supplemental Educational Opportunity Grant, College Work-Study, or National Direct Student Loan Programs, then the audit required by this part shall be included as part of an audit performed for any of those programs. If the institution does not participate in any of the above three programs, then the audit required by this part shall be performed at least once every two years.

(b) Audit report shall be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located for its review. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(20 U.S.C. 1088b-1, 1232c.)

[FR Doc.77-34100 Filed 11-30-77;8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 231—THURSDAY, DECEMBER 1, 1977

DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
BUREAU OF STUDENT FINANCIAL ASSISTANCE  
WASHINGTON, D.C. 20202

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Department of Health, Education and Welfare  
Office of Education  
Basic Educational Opportunity Grant Program

APPENDIX J  
MONDAY, MAY 15, 1978  
PART II



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DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Office of Education



BASIC EDUCATIONAL  
OPPORTUNITY GRANT  
PROGRAM

## PROPOSED RULES

[4110-02]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 190]

BASIC EDUCATIONAL OPPORTUNITY GRANT  
PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rule-making.

SUMMARY: The Commissioner of Education proposes to issue technical amendments to the Basic Educational Opportunity Grant regulations to define more clearly the administration of the program, and to implement the requirements mandated by the Education Amendments of 1976. The proposed rule revises and consolidates all existing program regulations other than those contained in the Family Contribution Schedules.

DATES: Comments must be received on or before June 14, 1978.

Public hearings will be held in three cities at the dates and times listed below:

May 31, 1978, Washington, D.C., 9 a.m. to 4 p.m.

June 2, 1978, Chicago, Ill., 9 a.m. to 4 p.m.

June 5, 1978, San Francisco, Calif., 9 a.m. to 4 p.m.

ADDRESS: Written comments should be sent to Mr. William Moran, Acting Chief, Basic Grants Policy Section, Division of Policy and Program Development, ROB-3, Room 4923, 400 Maryland Avenue SW., Washington, D.C. 20202. Comments will be available for public inspection at the above address, between 8:30 a.m. and 4 p.m., Monday through Friday (except Federal holidays).

The public hearings will be held at the following locations:

May 31, 1978, Regional Office Building-3, GSA Auditorium, 7th and D Streets SW., Washington, D.C., 9 a.m. to 4 p.m.

June 2, 1978, Illinois Institute of Technology, 3241 South Federal Street, Hermann Hall, Chicago, Ill., 9 a.m. to 4 p.m.

June 5, 1978, University of San Francisco, Student Center, 2130 Fulton Street, San Francisco, Calif., 9 a.m. to 4 p.m.

FOR FURTHER INFORMATION  
CONTACT:

William Moran, 202-245-1744.

SUPPLEMENTARY INFORMATION: These proposed amendments are being submitted for public comment. The final regulations resulting from this notice of proposed rulemaking are expected to be in effect for the 1978-79 award period.

EXPLANATION OF NEED FOR  
REGULATIONS

The following proposed rules revise and consolidate the Basic Grant Program regulations with the exception of the Family Contribution Schedules which are revised and published annually. These regulations provide for the administration of the Program, ensuring a standardized process by which a student's Basic Grant award is calculated and disbursed. In establishing the Basic Grant Program as a formula program based on an entitlement concept, the Congress intended as one of its major characteristics a consistent treatment of all applicants regardless of the institution a student chooses to attend. While the amount and types of financial aid the student receives from other programs might vary depending upon the availability of funds at a particular institution and the financial aid officer's judgment concerning the student's need, the student can be assured that the determination of eligibility for a Basic Grant is made in precisely the same manner for every applicant.

In revising these regulations, a number of objectives have been established. The first objective is to make the regulations more easily understood. All of the existing regulations have been consolidated and many have been rewritten and reorganized, not because of a change in concept, but for logical coherence and clarification. Secondly, the applicable provisions of the Education Amendments of 1976 have been incorporated. The third objective has been to respond to problems in program operation which program experience has indicated are not sufficiently addressed in current regulations. Final regulations resulting from this proposed rule will supercede the administrative and technical regulations published in the FEDERAL REGISTER on November 6, 1974, December 2, 1974, and August 10, 1976.

Amendments have been made in the administration of payments to prevent program abuse both by institutions and student recipients. These provisions have been developed in an effort to achieve a balance between good program control and an administration of the program which would not be overly burdensome to the institution.

It is important to note that these regulations apply only to the Basic Grant Program. However, there are other regulations which affect all Federal student financial assistance programs, including Basic Grants which must also be compiled with by administrators of the program. The Students Consumer Information Services regulations (45 CFR Part 178) were published on December 1, 1977 as final regulations. Other regulations currently being developed are: Procedures for Determining Institutional Eligibil-

ity and Recognizing National Accrediting Bodies and State Agencies (45 CFR Part 149) and General Provisions Relating to Student Assistance Programs (45 CFR Part 168).

A detailed description of the changes and amendments to the Basic Grant regulations is given below, organized by subpart.

## SUBPART A

Subpart A sets forth the purpose of the program, the definitions of the terms used throughout the regulations, and the eligibility criteria for students and for institutions.

Most of the revisions and expansions of the definitions included in this subpart are of a minor technical nature intended for the sake of clarity and specificity, and, as such, do not necessitate discussion. Several, however, warrant comment.

In an effort to standardize the language used by programs in the Bureau of Student Financial Assistance, the following terms are proposed to supplant current usage. In place of the Current term "academic year," the term "award period" is proposed to describe the period of time from July 1 of one year to June 30 of the subsequent year. "Award period" was selected because it is the term used for this twelve month interval in the three campus-based programs (Supplemental Educational Opportunity Grant, College Work-Study and National Direct Student Loan) and in the regulations concerning Student Consumer Information services.

It is also proposed to supplant the current term "school year" with the term "academic year." The proposed definition of "academic year" would establish the amounts of academic work for which a student must enroll within an award period in order to receive a full Basic Grant award. At institutions under a credit hour system, an academic year would mean an interval equal to the length of two semesters, two trimesters or three quarters.

At institutions using a clock hour system of measuring academic progress, an academic year is measured in terms of the number of clock hours designated by the institution to be completed within the period of an academic year, to be a minimum of 900 clock hours. A student is eligible to receive a portion of a full award based on the number of clock hours completed divided by the number of clock hours a full-time student would complete during an academic year.

In the course of the program's existence, instances of program abuse have surfaced which indicated a need to define "payment period." A payment period is the unit used to divide a student's Basic Grant for an award period into segments of an academic

year. Although a student's Basic Grant is applicable for an entire award period, the disbursement of these funds is divided into at least two equal disbursements (one each payment period) so as to minimize abuse of the program by students and institutions. The amount the students should receive for each payment period is based upon the amount of work expected to be accomplished by that student for that portion of the award period.

For institutions using clock hours to measure progress, the Office of Education is proposing two possible definitions of payment period and is soliciting public comments on both. The proposed definition of payment period attempts to ensure that a student, before being paid for additional course work, will have completed the work for which the student has already received Basic Grant assistance. As described below, these proposals are intended to eliminate a potential area of program abuse which exists under current regulations.

The difference between the two proposals can be summarized as follows: The first definition describes a payment period as a fixed number of clock hours to be completed within a flexible period of time. The length of the payment period would expand or contract to correspond with the actual length of time required by the student to complete those clock hours. The second definition describes a payment period as a fixed period of time. The student is paid at the beginning of the period for the clock hours expected to be finished during that period. If, at the end of the period of time, the student has not completed that amount of work, the student's award for the subsequent payment period will be adjusted.

The first definition (appearing in § 190.2a(d) of the proposed regulations) defines a payment period as being one-half of the student's course work within an award period. At the beginning of a student's enrollment for an award period, the institution would determine the number of clock hours the student can be expected to complete during the academic year within the award period, and then calculate and disburse the student's award for the first half of that academic year. The second payment period for the student would begin only after the student had completed the academic work required during the first payment period for which that student had been paid. The second payment period would be based upon the number of clock hours the student is expected to complete up to the end of the academic year or the award period. A payment period might extend into the subsequent award period, that is, up to the time the student actually completes the academic

work for which the student has been paid. This method would reduce a potential for program abuse that exists under current regulations when a student enrolls for, and is paid on the basis of, a certain enrollment status but fails to complete the number of hours which should have been completed at that enrollment status.

Under current regulations, at the time the second half of that student's academic year begins, the student is paid once again on the basis of the number of hours for which the student enrolls, regardless of the amount of academic work actually completed during the first half of the academic year. The proposed definition, included in § 190.2a, stipulates that the student enrolled in a program in which progress is measured in terms of clock hours would not receive another payment until the student had completed the academic work for which the student had already been paid.

Under the alternate definition proposed here for public comment, but not set forth in § 190.2a, an award period would be divided into two equal payment periods of a fixed length of time. A student's second disbursement would be made on a given date, rather than when the student actually completes the work for which the student has been paid, as in the system proposed above. However, under this alternate proposal, at the time of the disbursement for the second payment period, the student would receive the full amount of the second disbursement only if the student had completed the clock hours for which the student had been paid in the first payment period.

If the student had not completed the appropriate number of clock hours, the second disbursement would be adjusted to reflect the actual amount of work which will be completed during the award period. Under the proposed alternate definition the student's award would be adjusted in the following manner to accommodate any overpayment which occurred in the first payment period:

1. Multiply the amount disbursed during the first payment period by the following fraction:

$$\frac{\text{Hours for which paid, but not completed during payment period, divided by Hours scheduled to be completed for the payment period}}{\text{and,}}$$

2. Subtract the amount arrived at in Step 1 from the amount of the second disbursement to adjust the year's award.

For example, on July 1, a student enrolls in a 900 clock hour program, registering for 25 hours of training per week. The institution disburses one-half of the student's Scheduled Award. Eighteen weeks later the second payment period begins and the

student is eligible for an additional payment. If the student had maintained the original schedule and completed 450 hours, the student would receive the second half of the Scheduled Award. However, the student has not completed 50 of the 450 hours for which the student has been paid and the second half of the Scheduled Award must be adjusted to reflect the overpayment in the first payment period. The second disbursement is calculated by multiplying the amount of the first disbursement by 50/450 and subtracting that amount from the second half of the Scheduled Award.

Comment is solicited on both the proposed definition set forth in § 190.2a and the alternate proposal.

The proposed definition of "institution of higher education" (§ 190.3) has been amended to include the provision in Section 1201(a) of the Higher Education Act of 1965 which allows eligible public and other non-profit institutions to admit as regular students not only high school graduates but also other persons who are beyond the age of compulsory school attendance in the state in which the institution is located and who have the ability to benefit from the training offered by the institution. The wording of the definition is consistent with that for other Title IV programs.

Through the statutory definition of "institution of higher education," the Congress has provided, as a minimum, certain requirements that an institution must meet in order to participate in Federal student assistance programs. The proposed definition of "eligible program" (§ 190.2a) establishes a parallel with the statutory institutional eligibility requirements for each of the categories of postsecondary institutions: (1) proprietary, and (2) public or other non-profit institutions of higher education and vocational schools. Most noteworthy of these requirements is the minimum program length. An eligible program at a proprietary institution must include at least 16 semester or trimester hours or 24 quarter hours, or 600 clock hours of supervised training. On the other hand, an eligible program at a public or other non-profit institution of higher education or vocational school must include at least 24 semester or trimester hours or 36 quarter hours, or 900 clock hours of instruction.

Under § 190.7, "Institutional Eligibility," an institution may pay a student only in the payment period during which the institution becomes eligible, rather than retroactively for the entire year during which the institution becomes eligible as is permitted under the current policy. Similarly, if an institution becomes ineligible, the institution may pay the student only to the end of the payment period in which the institution loses its eligibility.

The situation in which a student is enrolled in both regular and correspondence course work is addressed in § 190.9, "Determination of Enrollment Status under Special Circumstances." This proposed rule is intended to encompass "outreach programs," offered by many institutions of higher education, which may involve correspondence work or educational aids such as television, in a relatively unsupervised student learning process.

"Institutional Administrative Allowance" (§ 190.10) implements section 411(d) of the Higher Education Act of 1965, providing an administrative allowance of up to \$10 per Basic Grant recipient each award period to institutions participating in the Basic Grant Program. This allowance is to be used first to comply with the Student Consumer Information regulations set forth in 45 CFR, Part 178, and then for other administrative costs of Title IV Programs. The amount of an institution's allowance is contingent upon the amount of funds appropriated for this purpose by Congress. The amount an institution will receive will be based upon the number of Basic Grant recipients enrolled at the institution during the previous award period.

#### SUBPART B

This subpart establishes and defines the application procedures for Basic Grants.

The proposed amendments regarding the application were rewritten for increased clarity. Section 190.11 includes an additional technical provision that the address provided on the application must be that of the applicant. An institutional address may be used only if the student resides at the institution.

Section 190.15 provides for an extension of the annual deadline for correcting financial information on an application if the Commissioner has requested documentation to verify that information. This provision is part of the Office of Education's efforts to curb program abuse by establishing procedures to verify an applicant's eligibility when there is documentation that financial information provided on the application form is not accurate.

Section 190.16 addresses requests for recomputation of the expected family contribution because of extraordinary circumstances. These extraordinary circumstances are the conditions under which an applicant is permitted to file a Supplemental Form. They are set forth in Sections 190.39 and 190.48 which are part of the annual Family Contribution Schedules.

#### SUBPART E

This subpart establishes the allowances for the costs of attendance for students eligible for Basic Grants.

Subpart E was reorganized to simplify the identification of educational costs.

Section 190.52 was derived from 190.51(d) of the current regulations to deal specifically with costs of attendance for students engaged in correspondence courses. Tuition and fee charges to be included are the actual amounts charged for a full academic year. Room and board charges incurred specifically to fulfill a required period of residential training may be considered a part of the cost of attendance.

Section 190.53 was added for the purpose of defining costs of attendance for students whose program length exceeds the length of the academic year for institutions measuring progress in terms of the clock hour systems. The following paragraphs explain the method of determining the allowable costs in calculating the costs of attendance.

When determining allowable costs in this case, institutional charges, including tuition, fees, and, when appropriate, room and board, for the full program should be multiplied by the following fraction:

Clock hours in academic year divided by  
Clock hours in program

This procedure results in a cost of education which has been prorated for the length of the academic year. For example, if an institution charges \$1,000 tuition and fees for a 1,200 hour program with a 900 hour academic year ( $900/1,200 \times \$1,000 = \$750$ ) \$750 would be added to the standard allowances for room and board and miscellaneous expenses in determining the student's cost of attendance.

When institutional charges include room and board, the same procedures are used. For example, in the case of an institution which charges \$2,400 for tuition, fees, room and board for a 1,500 hour program with a 1,000 hour academic year ( $1,000/1,500 \times \$2,400 = \$1,600$ ) \$1,600 would be added to the \$400 allowance for miscellaneous expenses in determining the student's cost of education.

Section 190.51(e) of the current regulations regarding costs of attendance for incarcerated students, has been rewritten and amended as § 190.54. The tuition and fees which are charged to a full-time student for a full academic year in the same program are the allowable costs to be used in determining the cost of education for incarcerated students. In addition to revising the former regulation for clarity, the amendments address the situation in which an incarcerated student is a resident of a halfway house, or a participant in restricted parole or some other type of rehabilitative program. In this instance, if less than one-half of room and board expenses are provided by the agency in-

volved, the student will have the same cost of education allowances as a student who is not incarcerated. The determination of whether the incarceration facility provides more than one-half of the student's room and board expenses is made by the financial aid officer.

The cost of attendance for students enrolled in the U.S. Armed Forces Academies is defined in § 190.55. For purposes of this part, students enrolled in the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy have no cost of attendance, and are therefore not eligible for Basic Grant assistance.

#### SUBPART F

In addition to several minor technical adjustments, the regulations concerning the determination of Basic Grant awards incorporate substantive changes. In the former category, § 190.61, "Submission of SER for Receipt of a Basic Grant—Cut Off Dates," has been expanded by incorporating § 190.76 from Subpart G of the current regulations. This change was made in an attempt to arrange the regulations in a more logical fashion so that the reader might more easily locate a particular item.

The regulations have been revised to reflect more accurately the enrollment status of part-time students and to pay them accordingly. The legislation governing the program requires that a student may be enrolled on at least a half-time basis to receive a Basic Grant. Currently program regulations define students as either full-time, three-quarter-time or half-time. A student enrolled for more credits than the amount needed to be considered half-time but less than the amount needed to be considered three-quarter-time is considered a half-time student and receives an award computed as one-half of the amount of full-time student would receive. Similarly, a student enrolled in a less than full-time but more than three-quarter time status is considered as three-quarter-time for Basic Grant purposes and receives an award computed as three-quarters of the amount of full-time student would receive.

Under the proposed rule eligible students who are enrolled on a less than full-time basis will no longer be divided into only two part-time categories. Rather, the Commissioner is proposing that a student's status as part-time will reflect the exact degree that the student's enrollment is related to full-time enrollment status.

The purpose of this change is to provide greater equity for part-time students. Under the proposed rule an award will bear a direct relationship to the student's academic course load. With this approach the institution will

need only a full-time payment schedule for calculating awards under the Basic Grant Program. The half-time and three-quarter-time payment schedules will no longer be required.

At those institutions which use traditional academic intervals, a student's award for a payment period would be determined by dividing the Schedule Basic Grant award by the number of payment periods in a school year and multiplying that amount by the credit hours in the payment period divided by the credit hours a full-time student would take in a payment period. For example, a student taking 11 credit hours a term at an institution which considers 12 hours per term full-time, would receive  $\frac{11}{12}$  of the Scheduled Basic Grant award divided by the number of terms in the academic year. Clock hour system institutions would determine a student's award for a payment period by multiplying the Scheduled Basic Grant award by the clock hours in the payment period divided by the number of clock hours in the academic year. For example, in a 900 clock hour program in which 600 clock hours will be completed before the close of the award period, the first payment period would consist of one-half of the number of hours to be completed within the award period (300). The student should receive 300/900 or one-third of the Schedule Basic Grant Award for that payment period.

"Attendance at more than one institution during an award period—transfer student," § 190.66, is the result of combining two points with the current § 190.83. When the institution is verifying the amounts of aid received under the National Direct Student Loan Program in order to insure that the aggregate amount the student receives under NDSLIP does not exceed the statutory limitation of \$2,500 for a two year degree or \$5,000 for a bachelor's degree, and, ascertaining, under the Supplemental Education Opportunity Grant Program, whether a student is in the initial or continuing category for such aid, Basic Grant award information should be obtained at the same time from the student. It should be noted that the proposed regulations governing administrative standards (45 CFR Part 168) which will be published shortly specifically addresses institutional responsibility regarding the requesting and forwarding of financial aid transcripts for students. When the institution becomes aware of the amount of Basic Grant money that the student has received, the Basic Grant award at the new school must be adjusted if necessary to ensure that the student does not exceed the highest Scheduled Basic Grant Award for the award period for which the student is eligible. If the student does receive more than that amount, the stu-

dent will be required to repay that amount which is in excess of the student's highest Scheduled Basic Grant Award.

Section 190.67, "Study by Correspondence," has been added to formalize the method of determining an award for students engaged in such study.

#### SUBPART G

This subpart concentrates on the administration of grant payments to students by institutions within the Regular Disbursement System. It has been extensively rewritten and expanded to accommodate several areas of special concern that, as the recent history of the program's operation indicates, have not been adequately addressed. Many of the current regulations merely required expansion and reorganization. Also, additional rules were developed for some aspects of the operation of the program in order to prevent potential or, in some cases, actual sources of program abuse by institutions and students.

Over the past several years some institutions have demonstrated that they were not capable or properly administering the disbursement of Basic Grant funds under the Regular Disbursement System. As a result, the Commissioner terminated each of those school's Agreement in order to protect both the interests of the government and the students attending those institutions. Therefore, § 190.73 is to formalize the process of termination. This section provides for that termination upon thirty days notice from the Commissioner, unless the Commissioner determines that a notice of shorter duration is necessary to prevent the likelihood of substantial loss of funds.

Students who are enrolled in an institution subject to termination would still be entitled to receive their Basic Grant payments; however, the institution would have to enter into an agreement with the Commissioner under the Alternate Disbursement System (ADS). The institution would then be responsible, under Subpart H of these regulations, to provide the Commissioner with that information necessary under ADS to facilitate the continued disbursement of funds to its students.

An institution can choose to terminate its RDS agreement with the Commissioner. However, that termination would take effect only on the last day of the award period in which a termination is requested.

Section 190.75, "Determination of Eligibility for Payment," includes two requirements applicable to all Title IV programs which result from the Education Amendments of 1976. These requirements, set forth in Section 497(e) of the Higher Education Act of 1965, as amended, stipulate that a student may receive assistance from Title IV programs only if that student:

(a) Is maintaining satisfactory progress in the student's course of study according to the standards and practices of the institution in which the student is enrolled, and

(b) Does not owe a repayment on a Basic Grant, Supplemental Grant, or State Student Grant received to meet costs of attendance at the institution in which the student is enrolled, and is not in default on a National Direct Student Loan received from that institution or on a Guaranteed Student Loan advanced to meet the student's costs of attendance at that institution.

Proposed regulations for the Basic Grant Program on these two statutory provisions were included in the notice of proposed rulemaking published in the FEDERAL REGISTER on April 8, 1977. In addition to setting forth the basic statutory requirement, the proposed rule also provided that if the institution determined at the beginning of a payment period that the student was not making satisfactory progress, but is able to reverse that determination before the end of the payment period, the student may be paid for the entire payment period. However, if the reversal of its original determination does not occur until after the end of the payment period, no retroactive payments may be made for that payment period. This proposal for dealing with the satisfactory progress requirement in the statute has been repeated in this notice of proposed rulemaking.

In responding to the April 8th notice of proposed rulemaking a number of commenters asked if any parameters would be set by the Office of Education for institutional standards of satisfactory progress. If the contents of an institution's standards of "satisfactory progress" establishes a reasonable code, this would be acceptable to the Office of Education. In setting its standards the institution is establishing a framework for evaluating a student's efforts to achieve an educational goal within a given period of time. In making this evaluation the institution needs to know the normal time frame for completion of the course of study in which the student is enrolled and it must have some means, such as grades or work projects completed, which can be measured against a norm.

Although the content of an institution's standards of "satisfactory progress" will not be subject to regulation at this time, the statute requires that the institution have some standards. An institution lacking any standards would be precluded from making any payments to students under Title IV programs since it would have no means of measurement for making the determination required by the statute. If an institution already has standards of "satisfactory progress" it may use those standards in determining eligi-

bility for payments under the Basic Grant and other Title IV programs. If it does not already have any standards it must adopt standards which will be applicable at least for recipients of aid under Title IV programs. Whatever standards are used for determining eligibility for payment under Title IV programs must be applied uniformly for recipients of aid under each of those programs; it would not be permissible, for example, to have one standard for receiving a Basic Grant and another for receiving a National Direct Student Loan.

Paragraph (e) of § 190.75 reflects the statutory provision stipulating that the institution may not pay a Basic Grant to a student who owes a refund because of an overpayment received under any of the three Title IV grant programs. An overpayment may result from an error by the student in completing the application or an error by the institution in making payment. The regulation differentiates between these two kinds of errors. If the overpayment was the result of an institutional error, the institution may pay the Basic Grant if the student acknowledges in writing the amount of the overpayment and agrees to repay it within a reasonable period of time. The proposed regulation leaves the period of time for this repayment to the discretion of the institution in order that the financial aid officer may take the individual circumstances of the student into account. The institution may extend that period of time into future award periods. If the overpayment resulted from an error on the part of the student, the institution may pay the Basic Grant if the overpayment has been repaid by the student or can be eliminated within the award period in which it occurred by adjusting subsequent Basic Grant payments for that award period.

In addition to overpayments resulting from student errors in completing the application or institutional errors in computing the amount of a grant, overpayments may also result if the student leaves the institution before the completion of the period for which the funds were awarded. The notice of proposed rulemaking published on April 8, 1977 discussed the issue of attribution of repayments from cash disbursements made directly to the student when the student leaves the institution before the completion of the period for which the funds were awarded. In that notice a formula was proposed, to be inserted in § 190.77 of the Basic Grant regulations, for calculating the portion of a grant disbursement which should be considered an overpayment subject to repayment by the student. There was a general consensus among the commenters that the formula did not allow sufficient flexibility for the institution to take

into consideration the circumstances of individual students in determining the amount of a cash disbursement which should be repaid. In response to the commenters' concern, the proposed formula has been discarded. In its place the Commissioner is proposing a procedure in which the institution would have discretion in determining the portion of a cash disbursement it considered "unused" as of the date the student withdraws. The portion of the "unused" amount which should then be considered an overpayment for each specific Title IV grant or loan program would then be determined by a simple proportional ratio. This proposal is included in proposed regulations for all Title IV programs entitled "General Provisions Relating to Student Assistance Programs (45 CFR Part 168)," to be published shortly in the FEDERAL REGISTER as a notice of proposed rulemaking.

Paragraph (e) of § 190.75 is intended to clarify the institution's responsibility in fulfilling the statutory requirement stating that it may not pay a Basic Grant to a student who is in default on a Guaranteed Student Loan advanced to the student for attendance at that institution. This paragraph provides that in determining whether the student is in default the institution may rely on a written statement from the student. Thus, the institution would not be required to initiate inquiries with commercial lenders to determine the current repayment status of each of its potential aid recipients. Also, this paragraph of the proposed regulation provides that the institution may, if it chooses, pay a Basic Grant to a student who is in default on a Guaranteed Student Loan if the guarantor (i.e., the Commissioner or the applicable guarantee agency) has determined that the student has made satisfactory arrangements to repay the defaulted loan. Similarly, the institution may, if it chooses, pay a Basic Grant to a student who is in default on a National Direct Student Loan at the institution, if the institution determines that the student has made satisfactory arrangements to repay it.

As a means of strengthening the effort to control abuse of the Basic Grant Program by students, Section 190.77, "Verification of Information on the SER—Withholding of payments," has been added. The procedures in this section pertain to verifying the information on the SER either before or after payment has been made. If the institution discovers that inaccuracies exist on the SER after payment has been made, the procedures outlined in § 190.80, "Recovery of overpayments," may also apply. Since the eligibility for Basic Grant assistance is based on need which is determined solely on the basis of information supplied by the

applicant (and the parents of dependent applicants), it is imperative that the pertinent data be accurate. Therefore, the Commissioner has taken a number of steps to help ensure that all applicants report correct information on their applications for aid.

All applicants must, of course, sign the certification statement on the application in which they agree to provide, if requested, any documentation necessary for the verification of their reported information. This section then outlines those situations under which the commissioner will request documentation to verify that information. It further requires that institutions must request from the student substantiating information or corrections if there is reason to believe that the information on the SER is inaccurate. If a student makes a correction which results in a change in the expected family contribution, the institution must recalculate the award. Additionally, institutions are required to withhold payment if they have documented evidence showing that the relevant information on the SER is erroneous, whereas they may not withhold payment if they believe the information to be inaccurate, but lack documentation.

This section also provides procedures for institutions to report unresolved cases to the Commissioner and for cancellation of a student's award if the student does not provide a complete and acceptable response to the Commissioner's request for documentation within an established time period. Concurrent with this award cancellation, the student's identification number is placed in a "hold" status which will prohibit the processing of any future applications in that award period or in subsequent award periods until the student has complied with the Commissioner's request.

For example, if a student submits an SER and the financial aid officer has reason to believe that some of the data on the SER is incorrect, the financial aid officer must request that the student review the information for accuracy and correct any erroneous entries. If the student does not correct the suspected discrepancy or does not prove to the financial aid officer's satisfaction that the information is correct, the financial aid officer would submit the case to the Commissioner. As already indicated, the financial aid officer would continue to pay the Basic Grant pending the outcome of the Commissioner's investigation unless the financial aid officer had documented evidence supporting his or her belief that the SER is not valid or unless the Commissioner specifically instructed the aid officer to withhold payment.

Once the Commissioner has reviewed the case, a determination will



be made as to whether additional documentation or corrections are necessary. If a student is asked to supply additional information, the student will have to comply within an established time period in order to avoid the cancellation of the grant. If the student forfeits the right to the grant by failing to supply requested documentation, that student will not be able to receive any additional consideration for future Basic Grant assistance until the requested documentation has been provided or until the Commissioner determines that the need for the documentation no longer exists.

If the student does submit the requested documentation and all necessary corrections have been made, then the amount of the Basic Grant to which the student will be entitled will be based on the valid SER which results from the verification process. However, if that SER is submitted after the close of the award period because of the verification process, the student will only be eligible for payment up to the amount that was previously withheld because of the verification process, even if the second SER has a lower eligibility index than the original. The reason for this rule is to avoid imposing upon institutions the administrative burden which would be incurred if they were required to recompute grants from previous award periods.

Section 190.78, "Method of Disbursement by Check or Credit to the Student's Account," has been expanded to include instructions to the institution concerning its responsibility to notify students about the availability of their check. To address the problem of students who do not pick up their checks promptly when they are notified that the checks are available, institutions are instructed to hold those checks fifteen days beyond the last day of the student's enrollment for that award period. A student forfeits the check if it is not picked up by that time. In cases of forfeits the institution may credit the student's account for any amount owed by the student for that award period. This section also limits the practice of early payments to students by the institution. A student may be paid at or after registration but no earlier than ten days before the first day of classes if the student is being paid directly, and no earlier than three weeks before the first day of classes if the institution is crediting the student's account. In addition, if an institution credits a student's account, the institution must obtain the student's signature on a written schedule of the dates and amounts of each disbursement, retain a signed copy for its records, and give a copy of the signed schedule to the student. This provision is intended to replace the requirements in § 190.75(e) of the cur-

rent regulations stipulating that a signed receipt must be obtained for each disbursement by credit to the student's account. This change is proposed in response to institutional comments that the current procedure poses an undue administrative burden. However, if an institution prefers to continue obtaining a signed receipt for each transaction, the series of signed receipts may be considered a schedule for purposes of complying with this regulation. It should be noted, however, that if the student officially or unofficially withdraws from or is expelled by the institution before the first day of classes, after having received a Basic Grant payment through either method of disbursement, the entire amount of the payment must be restored to the Basic Grant account.

Since the inception of the program, a cooperative effort has existed between the Office of Education and various RDS institutions in order to recover overpayments to students, in addition to verifying information found on Student Eligibility Reports. Section 190.80, "Recovery of Overpayments," formalizes this effort by delineating institutional responsibilities and reporting procedures. This section does not mandate any additional duties or responsibilities beyond those which have existed under the cooperative effort. However, it sets forth those responsibilities in regulations for RDS institutions and is intended to aid in preventing further program abuse. Institutional responsibility for overpayments which are the result of institutional error is stipulated, as well as the responsibility of the institution to cooperate with the Commissioner in recovering overpayments if those overpayments are not the result of institutional error. In the former instance, the institution is liable to the government for the overpayment but may attempt to collect the overpayment from the student. In the latter instance, the institution is only responsible for making a reasonable effort to contact the student and recover the overpayment. It is required to notify the Commissioner if it is unsuccessful in recovering the overpayment.

Section 190.81, "Recalculation of a Basic Grant Award," has been expanded and amended to require that a student's Basic Grant must be, rather than may be, recalculated if there is a change in the student's expected family contribution. If the enrollment status of a student changed during a payment period, the institution retains the option of choosing whether or not it will recalculate. If the institution, as a matter of institutional policy, chooses to recalculate for changes in enrollment status, it must take into consideration the portions of the payment period at both the original enrollment status and the new en-

rollment status, and also any change in the student's cost of education.

"Fiscal Control and Fund Accounting Procedures," § 190.82, has also been amended. Under current regulations institutions may but are not required to maintain a separate account for Federal funds. Under the proposed regulation, a separate account must be maintained for Federal funds. This requirement is also proposed in the "General Provisions Relating to Student Assistance Programs (45 CFR Part 168)."

Section 190.83, "Maintenance and Retention of Records," has been amended. The requirement of institutions to retain records has been increased from three to five years following the submission of a final report of expenditure of funds. Furthermore, any records involved in a claim or expenditure which has been questioned by a Federal audit are to be retained until the resolution of that audit exception. This requirement is consistent with that provided for the three campus-based Title IV student financial assistance programs.

"Audit and Examination," § 190.85, brings the Basic Grant Program into conformity with the three campus-based Title IV programs by requiring, at a minimum, that the Basic Grant Program be audited at least once every two years. The audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial assistance programs.

#### SUBPART H

This new subpart had been added to Part 190 in an effort to define more precisely the responsibilities of institutions, which, for one reason or another, operate the administration of grant payments under the Alternate Disbursement System. These new regulations are considered necessary for the proper conduct of the Program.

Under § 190.92, an institution will now be required to enter into a written agreement with the Commissioner to participate in the Alternate Disbursement System.

§ 190.92, "Change in Ownership and Change to Regular Disbursement System," provides that, if an institution changes ownership, its agreement with the Commissioner is terminated. However, it may be reactivated if the institution is found in compliance with the eligibility criteria set forth in "Procedures for Determining Institutional Eligibility and Recognizing National Accrediting Bodies and State Agencies (45 CFR Part 149)," when these criteria become final regulations. (They are to be published shortly as a notice of proposed rulemaking.) Institutions may only shift from ADS to RDS at the beginning of an award period.

## PROPOSED RULES

Section 190.94 sets forth the regulations which reflect the continuing responsibility of institutions to provide information necessary for the Commissioner to compute and disburse grant payments, and to provide certification regarding each student's eligibility or continuing eligibility for payment. This section also embodies the requirements mandated by Section 497(e) of the Higher Education Act of 1965, as amended, concerning satisfactory progress, repayments owed on grants previously received, and default status on Guaranteed and National Direct Student Loans.

Section 190.96 specifies that institutions must maintain records to support the information they supply to the Commissioner, provide a routine verification of that information as required, and provide access to records and information for purposes of audit and examination. As in the past, institutions under the Alternate Disbursement System do not have responsibility for the actual computation and disbursement of award payments.

**NOTE.**—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Pursuant to the authority contained in Title IV of the Higher Education Act of 1965, as amended (Pub. L. 89-329), the Commissioner proposes to amend the regulations in 45 CFR Part 190.

(Catalogue of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program).

Dated: March 7, 1978.

ERNEST L. BOYER,  
U.S. Commissioner  
of Education.

Approved: May 1, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

Accordingly, 45 CFR Part 190 is proposed to be amended as set forth below.

#### PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

##### Subpart A—Scope, Purpose and General Definitions

###### Sec.

- 190.1 Scope and purpose.
- 190.2 General definitions.
- 190.2a Special terms.
- 190.3 Institution of higher education.
- 190.4 Eligible student.
- 190.5 Duration of student eligibility.
- 190.6 Basic Grant payments from more than one institution.
- 190.7 Institutional eligibility.
- 190.8 Consortium agreements.
- 190.9 Determination of enrollment status under special circumstances.
- 190.10 Administrative cost allowance to postsecondary schools.

##### Subpart B—Application Procedures for Determining Expected Family Contribution

###### Sec.

- 190.11 Application.
- 190.12 Certification of information.
- 190.13 Deadline for filing applications.
- 190.14 Notification of expected family contribution.
- 190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.
- 190.16 Request for recomputation of expected family contribution because of extraordinary circumstance.

##### Subpart C—(Family Contribution Schedule)

##### Subpart D—(Family Contribution Schedule)

##### Subpart E—Costs of Attendance

- 190.51 General attendance costs.
  - 190.52 Attendance costs for students in correspondence study programs.
  - 190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.
  - 190.54 Attendance costs for incarcerated students.
  - 190.55 Attendance cost for students at U.S. Armed Forces academies.
- ##### Subpart F—Determination of Basic Grant Awards
- 190.61 Submission process and deadline for Student Eligibility Report.
  - 190.62 Calculation of a Scheduled Basic Grant at full funding.
  - 190.63 Calculation of a Scheduled Basic Grant at less than full funding.
  - 190.64 Calculation of Basic Grant for a payment period.
  - 190.65 Calculation of Basic Grants for terms which span two award periods.
  - 190.66 Transfer student: attendance at more than one institution during an award period.
  - 190.67 Correspondence study.

##### Subpart G—Administration of Grant Payments—Regular Disbursement System

- 190.71 Scope.
- 190.72 Institutional agreement—Regular Disbursement System.
- 190.73 Termination of agreement—Regular Disbursement System.
- 190.74 Advancement of funds to institutions.
- 190.75 Determination of eligibility for payment.
- 190.76 Frequency of payment.
- 190.77 Verification of information on the SER—withholding of payments.
- 190.78 Method of disbursement—by check or credit to students's account.
- 190.79 Affidavit of educational purpose.
- 190.80 Recovery of overpayments.
- 190.81 Recalculation of a Basic Grant award.
- 190.82 Fiscal control and fund accounting procedures.
- 190.83 Maintenance and retention of records.
- 190.84 Submission of reports.
- 190.85 Audit and examination.

##### Subpart H—Administration of Grant Payments—Alternate Disbursement System

- 190.91 Scope.
- 190.92 Institutional agreement—Alternate Disbursement System (ADS).
- 190.93 Change in ownership and change to the Regular Disbursement System (RDS).
- 190.94 Calculation and disbursement of awards by the Commissioner of Education.

###### Sec.

- 190.95 Termination of enrollment and refund.
  - 190.96 Maintenance and retention of records; access for purpose of audit.
- AUTHORITY:** Section 411 of the Higher Education Act of 1965 as added by Section 131(b) of Public Law 92-318, 86 STAT 247-251 as amended, (20 U.S.C. 1070a) unless otherwise noted.

##### Subpart A—Scope, Purpose and General Definitions

###### § 190.1 Scope and purpose.

The Basic Educational Opportunity Grant (Basic Grant) Program is to help financially needy students meet the costs of post-secondary education.

(20 U.S.C. 1070a.)

###### § 190.2 General definitions.

As used in this part:

(a) *Academic year:* (1) A period of time in which a full-time student is expected to complete the equivalent of 2 semesters, 2 trimesters or 3 quarters at institutions using credit hours; or

(2) At least 900 clock hours of training for each program at institutions using clock hours.

(20 U.S.C. 1088(c)(1).)

(b) *Act:* Title IV-A-1 of the Higher Education Act (HEA) of 1965, as amended.

(c) *Award period:* The period of time between July 1 of one year and June 30 of the following year.

(d) *Clock hour:* The equivalent of—

(1) A 50 to 60 minute class, lecture or recitation; or

(2) A 50 to 60 minute faculty supervised laboratory, shop training or internship.

(e) *Commissioner:* The U.S. commissioner of Education or his/her designee.

(f) *Enrolled:* Completion of registration requirements at the institution a student is attending or will be attending.

(g) *Enrollment status:* The following fraction: the student's credit or clock hours for a payment period/credit or clock hours of a full time student for a payment period (if this fraction exceeds one (1), then one (1) is used as the student's enrollment status).

(h) *Full-time student:* An enrolled student who is carrying a full-time academic work load (other than correspondence) which is determined by the institution and amounts to one of the following minimum requirements:

(1) 12 semester hours or 12 quarter hours per academic term in those institutions using standard semester, trimester or quarter hour systems;

(2) 24 semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress but not using semester, trimester or quarter systems;

(3) 24 clock hours per week for institutions using clock hours;



(4) In those institutions using both credit and clock hours, if the sum of the fractions is equal to or greater than one:

the number of credit hours/12 plus (+) the number of clock hours/24

(5) A series of courses or seminars which will equal 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load of a full-time student.

(20 U.S.C. 1088(c)(2).)

(l) *Good standing:* The eligibility of a student to continue attending the institution in which he/she is enrolled in accordance with the standards of the institution.

(j) *Half-time student:* An enrolled student who is carrying a half-time academic work load which is determined by the institution and amounts to at least half the work load of a full-time student. (see full-time student)

A half-time student enrolled in correspondence study must meet the minimum requirement of at least 12 hours of preparation of work per week. However, regardless of the work load, no student enrolled in correspondence study will be considered more than a half-time student.

(k) *Nonprofit institution:* An institution owned and operated by one or more nonprofit corporations or associations in which no part of the net earnings benefit any private share holder or individual.

(20 U.S.C. 1141(c).)

(l) *Payment schedule:* A table showing a full-time student's Scheduled Basic Grant for a given award period. This table, published by the Commissioner, is based on—

(1) The Family Contribution Schedules described in Subparts C & D;

(2) Attendance costs as defined in Subpart E; and

(3) The amount of funds available for making Basic Grants.

(m) *Scheduled Basic Grant:* The amount of a Basic Grant which would be paid to a full-time student for a full academic year.

(n) *State:* The states of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 20 U.S.C. 1088(a).)

(o) *Student Eligibility Report (SER):* A report provided to the applicant showing the amount of his/her expected family contribution.

(p) *Undergraduate student:* A student, enrolled in an undergraduate course of study, at an institution of higher education who:

(1) Has not been awarded a baccalaureate or first professional degree; and

(2) Is in an undergraduate course of study which usually does not exceed 4 years, or is enrolled in a 5-year program designed to lead to a first degree. (A student enrolled in any other length program is considered an undergraduate student for only the first 4 years).

(20 U.S.C. 1070a unless otherwise noted.)

§ 190.2a Special terms.

(a) *Eligible program in a public or nonprofit private college, university, junior college, community college or vocational school:* An undergraduate program of education or training which—

(1) Admits as regular students only persons who—

(i) Have a certificate of graduation from a secondary school, (high school graduates),

(ii) Have the equivalent of a high school diploma, a General Education Development (GED) Certificate, and

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and may benefit from the education or training offered.

(2)(i) Leads to a bachelor, associate or undergraduate professional degree,

(ii) Is acceptable for full credit toward a bachelor degree, or

(iii) Is at least a 1-year program leading to a certificate or degree, which prepares students for gainful employment in a recognized occupation. (A 1-year program is defined in § 190.3(c)).

(b) *Eligible program in a proprietary institution of higher education:* An undergraduate program of education or training which—

(1) Admits as regular students only high school graduates or GED recipients,

(2) Leads to a degree or certificate,

(3) Prepares students for gainful employment in a recognized occupation, and

(4) Is at least a 6-month program as defined in § 190.3(d).

(c) *Regular student:* A person who enrolls in an eligible program at an institution of higher education for the purpose of obtaining a degree or certificate.

(d) *Payment period—General.* Institutions not using semesters, trimesters, quarters or other academic terms, or which do not measure progress in credit hours, must have at least two payment periods between July 1 of one year and June 30 of the following year (an award period). The two payment periods are calculated in the following way:

(1) If the student's academic year is within one award period and the student's educational program is not less than a full academic year—

(i) The first payment period is the first half of the student's academic year, and

(ii) The second payment period is the second half of the student's academic year.

(2) If the student's academic year is NOT within one award period or the student's educational program is LESS than a full academic year—

(i) The first payment period is the first half of the hours the student is scheduled to complete within the award period, and

(ii) The second payment period begins when the first payment period ends and ends when the student completes all hours he/she was scheduled to complete between the beginning of the second payment period and June 30.

(3) A student with incompleting hours for the second payment period of any award period may complete them during the following award period. In this case, the first payment period of the new award period will not begin until the student has finished all carried over hours for which he/she was paid.

(e) *Payment period—Academic terms/credit hour institutions.* For those institutions which use academic terms and measure progress in credit hours, a payment period is a span of time which corresponds with each semester, trimester, quarter or other academic term.

(20 U.S.C. 1070a.)

§ 190.3 Institution of higher education.

An institution of higher education is a public, private nonprofit or proprietary institution.

(a) *A public or private nonprofit institution of higher Education* is an educational institution which—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma,

(ii) Have a GED Certificate, or

(iii) Are beyond the age of compulsory school attendance in the state in which the institution is located, and have the ability to benefit from the training offered. (An institution must document a student's ability to benefit from the training offered on the basis of standardized test, other measurement instruments, practicum examinations or verifiable indicators such as written recommendations from professional educators, counselors, or employers not affiliated with the institution);

(3) Is legally authorized to provide an education program beyond secondary education in each State in which the institution is physically located;

(4) Provides—

(i) An educational program for which it awards an associate, baccalaureate, advanced or professional degree,

(ii) At least a 2-year program which is acceptable for full credit towards a baccalaureate degree, or

(iii) At least a 1-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation, and

(5) Is—

(i) Accredited by an accrediting agency.

(ii) Approved by a State agency recognized by the Commissioner as a reliable authority on the quality of public postsecondary vocational education in its State, if the institution is a public postsecondary vocational educational institution.

(iii) An institution which has satisfactorily assured the Commissioner that it will meet the accreditation standards of an agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or

(iv) An institution whose credits are accepted on transfer by at least 3 accredited institutions on the same basis as transfer credits from fully accredited institutions.

(b) A proprietary institution of higher education is an educational institution which—

(1) Is not a public or other nonprofit institution;

(2) Is in a State;

(3) Admits as regular students only person who have a high school diploma or a GED certificate;

(4) Is legally authorized to provide postsecondary education in the state in which it is physically located;

(5) Provides at least a 6-month program of training to prepare students for gainful employment in a recognized occupation;

(6) Is accredited by an accrediting agency;

(7) Has been in existence for at least 2 years, i.e., is legally authorized to provide, and has provided, a training program on a continuous basis to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation period) preceding the date of application for eligibility; and

(8) Has entered into an agreement which the Commissioner has determined will insure that the availability of assistance to students under Title IV of HEA has not resulted in, and will not result in, increased tuition, fees or other charges to its students.

(c) One year training program. A program which is—

(1) At least 24 semester or trimester hours or units, or 36 quarter hours or units, at institutions using semesters, trimesters or quarter systems;

(2) At least 900 clock hours of supervised training at institutions not using

semesters, trimesters or quarter systems; or

(3) At least 900 hours of preparation for a correspondence program.

(d) Six month training program. A Program which is—

(1) At least 18 semester or trimester hours or 24 quarter hours at institutions using semester, trimesters, or quarter systems;

(2) At least 600 clock hours of supervised training at institutions not using semesters, trimesters, or quarter hour systems, or

(3) At least 600 hours of preparation for a correspondence program.

(20 U.S.C. 1141(a), 20 U.S.C. 1088(b)(3).)

#### § 190.4 Eligible student.

(a) A student is eligible to receive a Basic Grant if the student—

(1) Is accepted for enrollment or is enrolled in good standing as at least a half-time undergraduate student at an institution of higher education;

(2) Is enrolled in an eligible program as a regular student, as defined in § 190.2a; and

(3) Is a U.S. Citizen or National, is or intends to become a permanent U.S. resident, or is a permanent resident of the Trust Territory of the Pacific Islands.

(b) A member of a religious order (community, society, agency or organization) who is pursuing a course of study in an institution of higher education will be considered as having a family contribution of not less than \$1,601 if that religious order—

(1) Has as a primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(2) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(3)(i) Has directed the member to pursue the course of study, or

(ii) Provides subsistence support to its member.

(20 U.S.C. 1070a.)

#### § 190.5 Duration of student eligibility.

(a) A student is eligible to receive a Basic Grant for the period of time required to complete an undergraduate course of study. That period is usually 4 academic years, but may be extended up to one additional year if—

(1) The student is pursuing a 5-year course of study designed to lead to a first degree; or

(2) The student is or will be required to enroll in a noncredit remedial course of study.

(b) For the purpose of paragraph (a) of this section, a noncredit remedial course of study is a course of study for which no credit is given toward an academic degree and which is designed to increase the ability of the student to

pursue an undergraduate course of study leading to such a degree.

(c) The Commissioner will subtract from each student's period of eligibility, any period for which the student has received a Basic Grant. The eligibility used during an award period will be calculated by: The student's Basic Grant Award for that award period, divided by the student's Scheduled Basic Grant.

(d) If a student has received an overpayment in an award period, the overpayment will not be used in calculating the amount of eligibility used.

(20 U.S.C. 1070a.)

#### § 190.6 Basic Grant payments from more than one institution.

A student will not be entitled to receive Basic Grant payments concurrently from more than one institution or from the Commissioner and an institution.

(20 U.S.C. 1070a.)

#### § 190.7 Institutional eligibility.

(a)(1) An institution of higher education is eligible to participate in the Basic Grant Program if it meets the appropriate definition set forth in § 190.3, and is in compliance with the applicable provisions of part 168 of this title, "Standards of Administrative Capability and Financial Responsibility."

(2) If an institution becomes eligible during an award period, a student enrolled and attending that institution will be eligible to receive a Basic Grant for the payment period during which the institution became eligible and any subsequent payment period.

(b)(1) An institution of higher education becomes ineligible to participate in the Basic Grant Program if it no longer meets the applicable definition set forth in § 190.3, or if its eligibility is terminated under Subpart H of part 168 of this title.

(2) If an institution becomes ineligible during an award period, an eligible student, who is enrolled and attending that institution, will be paid a Basic Grant for the payment period prior to the time the institution became ineligible. In addition, an eligible student, who has received a Basic Grant or to whom a commitment has been made before the effective date of termination of the institution's eligibility, will be paid a Basic Grant for the payment period in which the institution became ineligible.

(3) For purposes of this section, a commitment of a Basic Grant to a student is made when a student, who is enrolled in and attending an institution, submits a valid Student Eligibility Report to the institution, or to the Commissioner if the institution participates in the program under the Alternate Disbursement System.

(c) An institution which becomes ineligible must provide the Commissioner with the names and enrollment status of each student eligible for Basic Grants attending the institution when its eligibility was terminated.

(d) An institution under the Regular Disbursement System which becomes ineligible must supply to the Commissioner—

(1) A list of students to whom a commitment of a Basic Grant has been made as of the date of termination;

(2) The amount of funds paid to each Basic Grant recipient for that award period;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the payment period; and

(4) An accounting of the Basic Grant expenditures for that award period to the date of termination.

(20 U.S.C. 1070a.)

§ 190.8 Consortium agreements.

(a) A consortium agreement is a written agreement between at least two institutions which enables an enrolled student in an eligible program at the first institution to take courses at the second institution which apply towards his/her certificate or degree at the first institution.

(b) If two eligible institutions have entered into a consortium agreement, the institution at which the student is enrolled and expects to receive a degree or certificate calculates and pays the student's Basic Grant.

(c) Courses taken at both institutions under a consortium agreement will be considered in determining the student's enrollment status and cost of attendance in calculating the student's Basic Grant.

(20 U.S.C. 1070a.)

§ 190.9 Determination of enrollment status under special circumstances.

(a) *Non-credit remedial courses.* In determining a student's enrollment status, the institution will include any non-credit remedial course in which the student is enrolled. If a non-credit remedial course is not measured by clock or credit hours, the institution must determine the equivalent number of clock or credit hours which should be included for that work.

(b) *Combination of regular and correspondence study.* If an eligible student takes correspondence courses from either his/her own institution or another institution under a consortium agreement with the student's institution, the correspondence work must be included in determining the student's enrollment status if it—

(1) Applies toward the student's degree or certificate or is remedial work necessary for the student or to proceed in his/her course of study;

(2) Is completed within the period of time required for regular course work; and

(3) Does not exceed one-half of the student's total course load for that payment period.

(20 U.S.C. 1070a.)

§ 190.10 Administrative cost allowance to participating schools.

(a) Any participating educational institution is eligible to receive an administrative cost allowance when funds are appropriated by Congress for this purpose.

If funds are sufficient, each participating institution will be paid not more than \$10 per year for each student who receives a Basic Grant. (No institution may count a Basic Grant recipient more than once in an award period).

All funds a school receives under this section must be used to provide consumer information in accordance with 45 CFR 178, and for additional costs of administering student financial aid programs under Title IV of HEA.

(b) If appropriated funds for any fiscal year are insufficient to pay full allowances, payments will be proportionately reduced. If additional funds become available for any fiscal year in which payments were reduced, allowances will be increased proportionately to the reductions.

(20 U.S.C. 1070a(d).)

Subpart B—Application Procedures for Determining Expected Family Contribution

§ 190.11 Application.

(a) To receive a Basic Grant, a student applies to the Commissioner on an approved form to have his/her expected family contribution determined.

(b) The student, and where relevant the student's parents or spouse, must submit accurate and complete information as of the date the application is signed.

(c) The address provided by the student must be his/her residence and not the address of the school, unless the student resides at the school.

(20 U.S.C. 1070a(b)(2).)

§ 190.12 Certification of information.

The applicant, and where relevant the applicant's parents or spouse, will provide (if requested) information or documents, including a copy of Federal Income Tax Returns, necessary to verify the accuracy of the information provided.

(20 U.S.C. 1070a(b)(2).)

§ 190.13 Deadline for filing applications.

For each award period the Commissioner will establish application filing

cut-off dates for determining expected family contributions.

(20 U.S.C. 1070a(b)(1).)

§ 190.14 Notification of expected family contribution.

The Commissioner will send to each eligible applicant a "Student Eligibility Report" which states the amount of the applicant's expected family contribution and information used in that computation.

(20 U.S.C. 1070a.)

§ 190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.

An applicant may request a recomputation of the expected family contribution if he/she believes a clerical or arithmetic error has occurred, or if the information submitted was inaccurate when the application was signed.

A request for recomputation will be made on an approved form and must be received by the Commissioner no later than the annual cut-off date unless the recomputation is necessary because of a request made by the Commissioner to verify information.

(20 U.S.C. 1070a(b)(2).)

§ 190.16 Request for recomputation of expected family contribution because of extraordinary circumstances.

In filing an application to have an expected family contribution determined, an applicant may provide financial information relating to the tax year immediately following the base year if the conditions in §§ 190.39 or 190.48 apply.

(20 U.S.C. 1070a.)

Subpart C—(Family Contribution Schedule)

Subpart D—(Family Contribution Schedule)

Subpart E—Costs of Attendance

§ 190.51 General attendance costs.

(a) Except as provided in §§ 190.52 through 190.55, the following will be recognized as a student's costs of attendance:

(1) *Tuition and fees:* The amount charged to a full-time student by the institution for tuition and fees for an academic year.

Tuition and fees may include travel costs within the United States required for completion of the course of study, but not for travel between the student's residence and the institution, or for travel outside the United States.

(2) *Room and board:*

(i) The amount charged the student by the institution under a contract for room and board,

(ii) The amount charged the student by the institution under a contract for room but not board, plus an allowance of \$625 for the award period,

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(iii) The amount charged the student by the institution under a contract for board but not room, plus an allowance of \$475 for the award period.

(iv) If no contract is entered into for either room or board, an allowance of \$1,100 for the award period whether or not the student lives with a parent, or

(v) If an institution enters into a contract with the student for room and/or board for less than 7 days a week, a daily rate will be computed and charged the student for those days not covered by the contract. This amount will be added to the costs established under clauses (i), (ii), or (iii) of subparagraph (a)(2), whichever is applicable.

(3) An allowance of \$400 will be made for books, supplies and miscellaneous expenses for the award period.

(b) A student who receives a Basic Grant may not be charged more by an institution than a student enrolled in that same program who does not receive a Basic Grant.

(20 U.S.C. 1070(a)(2)(B)(iv).)

**§ 190.52 Attendance costs for students in correspondence study programs.**

If a student is enrolled in a correspondence study program, only the costs of tuition and fees charged the student for that program for an academic year will be recognized as a student's costs of attendance. However, room and board costs incurred for fulfilling a required period of residential training may be recognized as a cost of attendance.

These room and board costs will be—

(a) Based on institutional charges; or  
(b) Determined according to the costs established in § 190.51(a)(2) and prorated in the same ratio as the course work completed in residential training bears to the course work for an academic year.

(20 U.S.C. 1070a.)

**§ 190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.**

Costs for students whose program length exceeds the length of the academic year at institutions measuring progress in clock hours will be calculated by adding—

(a) Institutional charges × clock hours in academic year/clock hours in program;

(b) Room and/or board as described in 190.51(a)(2) if not determined in paragraph (a) of this section; and

(c) An allowance of \$400 for books, supplies and miscellaneous expenses.

(20 U.S.C. 1070(a)(2)(B)(iv).)

**§ 190.54 Attendance cost for incarcerated students.**

(a) Costs of attendance for eligible students who are incarcerated and for whom at least one-half of room and board expenses are provided will include—

(1) Tuition and fees charged a full-time student for an academic year; and

(2) An allowance of \$150 for books and supplies.

(b) Costs of attendance for eligible students who are incarcerated and for whom less than one-half of room and board expenses are provided will be the same as those allowed for students who are not incarcerated.

(20 U.S.C. 1070(a)(X)(iv).)

**§ 190.55 Attendance costs for students at U.S. Armed Forces academies.**

Students enrolled at the U.S. Military Academy at West Point, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy will be considered to have no cost of attendance.

(20 U.S.C. 1070a(2)(B)(iv).)

**Subpart F—Determination of Basic Grant Awards**

**§ 190.61 Submission process and deadline for student eligibility report.**

(a) A student applies for a Basic Grant by submitting a valid "Student Eligibility Report" (SER) to his/her institution or to the Commissioner if that institution is on the Alternate Disbursement System.

The SER is considered valid only if all information used in the calculation of the expected family contribution is complete and accurate when the application was signed. Institutions are entitled to rely on SER information except under conditions set forth in § 190.77

(b) To receive a Basic Grant, a student who enrolls before May 1 of an award period must submit the SER to his/her institution on or before May 31 of each award period.

A student who enrolls on or after May 1 of an award period may submit the SER to the institution on or before June 30 of that award period.

(c) A student attending an institution under the Alternate Disbursement System is permitted an additional ten days to submit the SER to the Commissioner; June 10 for those who enroll on or before May 1, and July 10 for those who enroll after May 1.

(d) A student who submits an SER to an institution at the time he/she is no longer enrolled and attending a program at that institution may not be paid a Basic Grant.

(20 U.S.C. 1070a(b)(2).)

**§ 190.62 Calculation of a Scheduled Basic Grant at full funding.**

(a) When funds are available to sat-

isfy all payments, the Commissioner will pay each eligible full-time student for a complete academic year a Basic Grant which is the lowest of the following calculations:

(1) The difference between \$1,800 and the expected family contribution stated on the applicant's SER;

(2) 50 percent of the applicant's cost of attendance; and

(3) The difference between the cost of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if the student's Scheduled Basic Grant is less than \$200.

(20 U.S.C. 1070a(a)(2).)

**§ 190.63 Calculation of a Scheduled Basic Grant at less than full funding.**

(a) When funds are not available to satisfy all payments, the Commissioner will pay each eligible full-time student for a complete academic year a Basic Grant which is the lowest of the following calculations:

(1) The difference between \$1,800 and the expected family contribution, reducing the remainder in accordance with section 411(b)(3) of the Act;

(2) 50 percent of the applicant's costs of attendance; and

(3) The difference between the costs of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if—

(1) The student's award is less than \$50; or

(2) When calculated at full funding, the Scheduled Basic Grant is less than \$200. (See § 190.62(a).)

(20 U.S.C. 107a(b)(3).)

**§ 190.64 Calculation of a Basic Grant for a payment period.**

(a) At those institutions using semesters, trimesters, quarters, or other academic terms and measuring progress by credit hours, a Basic Grant for each payment period is calculated as follows:

(i) If a student is enrolled in an eligible program which is at least a full academic year—

(i) Determine the student's Scheduled Basic Grant according to § 190.62 (full funding) or § 190.63 (less than full funding) whichever is appropriate,

(ii) Divide the Scheduled Basic Grant by the number of payment periods in the academic year, and

(iii) Multiply the result obtained in clause (ii) by the student's enrollment status. (See § 190.2 to determine enrollment status.)

(2) If a student is enrolled in an eligible program which is LESS than a full academic year—

(i) Determine the student's Scheduled Basic Grant,

(ii) Divide the Scheduled Basic Grant by the number of payment periods,

(iii) Multiply the result obtained in clause (ii) by the student's enrollment status, and

(iv) Multiply the result obtained in clause (iii) by the credit hours in the program/the credit hours in the academic year.

(b) At those institutions which measure progress by clock hours or do not use semesters, trimesters, quarters or other academic terms, a Basic Grant for each payment period is calculated as follows:

(1) Determine the the student's Scheduled Basic Grant; and

(2) Multiply the Scheduled Basic Grant by: the credit or clock hours in the payment period/the credit or clock hours in an academic year.

(c) Notwithstanding paragraphs (a) and (b) of this section, a student may not receive a Basic Grant if the amount which the student would receive, projected on the basis of a full academic year, would be less than either \$200 at full funding or \$50 at less than full funding.

(20 U.S.C. 1070a.)

**§ 190.65 Calculation of Basic Grants for terms which span two award periods.**

At institutions which measure progress by credit hours and use semesters, trimesters, quarters or other academic terms, students will be paid for credit hours in terms which span two award periods by the following procedure:

(a) Payment for the credit hours will be made during the award period in which the term begins up to (but not to exceed) the student's Scheduled Basic Grant for that award period.

(b) Payment for any remaining credits due the student will be made the following award period.

(20 U.S.C. 1070a.)

**§ 190.66 Transfer student: attendance at more than one institution during an award period.**

(a) If a Basic Grant recipient withdraws from one institution and enrolls at a second in the same award period, the student must reapply for a Basic Grant to the second institution, or to the Commissioner for an ADS institution. (See § 190.72.)

(b) The second institution (or the Commissioner for ADS schools) calculates the student's award according to § 190.64.

(c) The second institution (or the Commissioner for ADS schools) pays a Basic Grant for only that portion of the award period in which the student is enrolled at that institution. The grant must be adjusted to ensure that the student does not exceed the Scheduled Basic Grant for that award period.

(d) A transfer student must repay any amount received in an award period which exceeds the Scheduled Basic Grant.

(20 U.S.C. 1070a.)

**§ 190.67 Correspondence study.**

A student, enrolled in a correspondence study program will be paid according to the following procedures:

(a) The institution prepares a written schedule for submission of lessons which must reflect a work load of at least 12 hours of preparation per week. This schedule is used to determine the length of the program.

(b) The student's Basic Grant for an award period is calculated as follows:

(1) Determine the Scheduled Basic Grant according to §§ 190.62 or 190.63, whichever is appropriate, and

(2) Multiply the Scheduled Basic Grant by the following fraction: hours of preparation in the award period/hours of preparation in the academic year.

(c) The student will be paid as a half-time student. Therefore, the maximum award a student may receive is the lesser of (1) one-half of the student's Scheduled Basic Grant for that award period, or (2) the amount obtained in subparagraph (b)(2) of the section.

(d) A student will receive 2 equal payments for an award period. The first payment will be made after the student has submitted 25 percent of the lessons scheduled for the award period.

(e) The final payment will be made after the student has submitted 75 percent of the lessons scheduled for the award period.

(20 U.S.C. 1070a.)

**Subpart G—Administration of Grant Payments—Regular Disbursement System**

**§ 190.71 Scope.**

This subpart deals with program administration by an institution of higher education that has entered into an agreement with the Commissioner to calculate and pay Basic Grant awards.

(20 U.S.C. 1070a.)

**§ 190.72 Institutional agreement—regular disbursement system (RDS).**

(a) The Commissioner may enter into an agreement with an institution of higher education under which the institution will calculate and pay Basic Grants to its students. The agreement will be on a standard form provided by the Commissioner and will contain the necessary terms to carry out this part.

(b) The Commissioner will send a payment schedule for each award period to an institution that has entered into an agreement under paragraph (a) of this section.

(20 U.S.C. 1070a.)

**§ 190.73 Termination of agreement—regular disbursement system.**

(a) *Termination by Commissioner.* The Commissioner may terminate the agreement with an institution by giving—

- (1) 30 days notice; or
- (2) A shorter period of time if it is necessary to prevent the likelihood of a substantial loss of funds to the Federal government or to students.

(b) *Information provided.* The institution must provide the following information to the Commissioner if the Commissioner terminates the agreement:

(1) A list of students who had Basic Grant commitments as of the date of termination;

(2) The amount of funds paid to Basic Grant recipients for the award period in which the agreement is terminated;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the award period; and

(4) An account of Basic Grant expenditures to the date of termination.

(c) *Termination by institution.* The institution may terminate the agreement by giving the commissioner written notice. The termination will become effective June 30 of that award period. The institution must carry out the agreement for the remainder of the award period.

(d) *Termination because of change in ownership which results in a change of control.* The agreement automatically terminates when an institution changes ownership which results in a change of control. The Commissioner will enter into an agreement with the new owner if the institution complies with requirements set forth in § 149.66 of the "Eligibility Regulations." (45 CFR 149.66.)

(e) If an agreement is terminated, the Commissioner will pay an institution's students ONLY if it enters into an ADS agreement. (See § 190.92.)

(20 U.S.C. 1070a.)

**§ 190.74 Advancement of funds to institutions.**

The Commissioner will advance funds for each award period, from time to time, to RDS institutions, based on his/her estimate of the institution's needs for funds to pay its Basic Grant students.

(20 U.S.C. 1070a)(b)(3)(A).)

**§ 190.75 Determination of eligibility for payment.**

(a) An institution may pay a Basic Grant to a student only after it determines that the student—

- (1) Meets the eligibility requirements set forth in section 190.4;

- (2) Is enrolled in good standing;
- (3) Is maintaining satisfactory progress in his/her course of study;
- (4) Is not in default on any National Direct Student Loan made by that institution or on any Guaranteed Student Loan received for attendance at that institution; and
- (5) Does not owe a refund on a Basic Grant, a Supplemental Grant or a State Student Incentive Grant received for attendance at that institution.

(b) Before making any payment to the student for an award period, the institution must confirm that he/she continues to meet the criteria set forth in paragraph (a) of this section. However, if an eligible student submits an SER to the institution and becomes ineligible before receiving a payment, the institution must pay only the amount which it determines could have been used for educational purposes before the student became ineligible.

(c) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself BEFORE the end of the payment period, the institution may pay a Basic Grant to the student for the entire payment period.

(d) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself AFTER the end of the payment period, the institution may neither pay the student a Basic Grant for that payment period nor make adjustments in subsequent Basic Grant payments to compensate for the loss of aid for that period.

(e) Conditions under which students who are overpaid grants may continue to receive Basic Grants are as follows:

(1) *Overpayment of a Basic Grant.* If a student is overpaid a Basic Grant at an institution, that institution may pay a Basic Grant to that student if (i) the student is otherwise eligible, and (ii) the overpayment can be eliminated in the award period in which it occurred by adjusting the subsequent Basic Grant payments for that award period.

(2) *Overpayment of a Basic Grant due to institutional error.* In addition to the exception provided in subparagraph (1) of this paragraph, if the student is overpaid a Basic Grant at an institution as a result of institutional error, the institution may also pay the student a Basic Grant if:

(i) The student is otherwise eligible, and

(ii) The student acknowledges in writing the amount of overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment on a Supplemental Grant.* An institution may continue to

pay a Basic Grant to a student who receives an overpayment on a Supplemental Grant if:

(i) The student is otherwise eligible, and

(ii) An adjustment in subsequent financial aid payments (other than Basic Grants) eliminates the overpayment in the same award period in which it occurred.

(f) An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program, may rely upon the student's written statement that he/she is not in default unless the institution has information to the contrary.

(g) Conditions under which students who are in default on loans may receive Basic Grants are as follows:

(1) *Guaranteed Student Loan.* A student, who is in default, may be paid a Basic Grant if the Commissioner (for federally insured loans) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(2) *National Direct Student Loan.* An institution may pay a Basic Grant to a student in default on a National Direct Student Loan made at that institution, if the student has made arrangements, satisfactory to the institution, to repay the loan.

(h) For purposes of this part—

(1) Overpayment of a grant means that a student received payment of a grant greater than the amount he/she was entitled to receive;

(2) Supplemental Grant is a grant authorized under Title IV-A-2 of the HEA;

(3) State Student Incentive Grant is a grant authorized under Title IV-A-3 of the HEA;

(4) National Direct Student Loan is a loan made under Title IV-E of the HEA, and

(5) Guaranteed Student Loan is a loan made under Title IV-B of the HEA.

(20 U.S.C. 1070a, 20 U.S.C. 1070b et seq, 20 U.S.C. 1087aa et seq, 20 U.S.C. 1071 et seq, and 20 U.S.C. 1088b.)

#### § 190.76 Frequency of payment.

(a) For each payment period, an institution may pay a student at such times and in such installments as it determines will best meet the student's needs.

(b) Only one payment is required if a portion of an academic year occurring within one award period is less than three months.

(c) Funds due a student for any completed period may be paid in one lump sum. The student's enrollment status will be determined according to work already completed.

(20 U.S.C. 1070a.)

#### § 190.77 Verification of information on the SER—withholding of payments.

(a) The Commissioner may request that a student verify the information submitted on the application and included on the SER, and may request an institution to withhold payment of a student's grant.

(b) If an institution believes that any information on the SER used in calculating the student's expected family contribution is inaccurate, or if the application is chosen by the Commissioner for verification, the institution must request verification from the student.

(c) If an institution can document inaccuracies in the information used to calculate the student's expected family contribution on the SER, it may not pay a Basic Grant for any award period until the student corrects the error or verifies the data.

(d) If an institution cannot document that inaccuracies exist on the SER, it may not withhold payments unless authorized by the Commissioner.

(e) A student corrects an SER by—

(1) Providing accurate information on the SER;

(2) Getting the appropriate signatures on the SER; and

(3) Re-submitting the SER to the Commissioner.

(f) (1) If a student makes a correction which results in a change in his/her expected family contribution, the institution must recalculate the student's award based on the verified SER and any overpayment must be repaid by the student.

(2) If the documentation requested by the institution under this section does not verify the information of the SER, or if the student does not correct the SER, the institution must forward the student's name, social security number and other relevant information to the Commissioner.

(g) When notified by an institution under paragraph (f)(2) of this section, the Commissioner will determine whether to—

(1) Request additional information from the student; or

(2) Pay the student's Basic Grant on the basis of the SER.

(h) (1) If the Commissioner requests documentation, the student must comply within a time period set by the Commissioner.

(2) If the student provides the requested documentation on time, he/she will be eligible for Basic Grant payments based upon the verified SER. If the verified SER is submitted to the institution after the appropriate deadline (§ 190.61) the student may be paid only up to the amount withheld, because of the verification process.

(3) If the student does not provide the requested documentation within the established time period—



(i) The student will forfeit the Basic Grant for that award period.

(ii) Any grant payments received must be returned to the Commissioner, and

(iii) No further Basic Grant applications will be processed for that student until documentation has been provided or the Commissioner decides there is no longer need for documentation.

(4) If the student provides the documentation AFTER the established time period—

(i) The student will not be eligible for any further Basic Grant payments for that period,

(ii) Any overpayments must be repaid by the student to the institution, and

(iii) The student may keep any Basic Grant payments he/she is entitled to. (20 U.S.C. 1070a.)

**§ 190.78 Method of disbursement—by check or credit to student's account.**

(a) A student may be paid either by check or be crediting his/her account with the institution. The institution must notify the student how he/she will be paid.

(b) (1) No payment may be made to a student for a payment period until the student is registered for that period.

(2) The earliest a direct payment may be made to a student is 10 days before the first day of classes of a payment period.

(3) The earliest a payment can be credited is 3 weeks before the first day of classes of a payment period.

(c) (1) If an institution credits a student's account, it must—

(i) Prepare a written schedule of the time and amount of each payment,

(ii) Get the student's signature on the schedule, and

(iii) Give a copy of the signed schedule to the student and keep a signed copy for its own records.

(2) Notwithstanding subparagraph (1) of this paragraph, if the institution prepares a schedule which a student refuses to sign, it still may pay the student if it retains the schedule with a notation that the student refused to sign.

(d) If a student has been paid and withdraws from the institution, officially or unofficially, or is expelled before the first day of classes, the institution must return to the Basic Grant account all funds paid.

(e) (1) If an institution pays directly, it must notify the student when the Basic Grant awards will be paid.

(2) If a student does not pick up the check on time, the institution must keep that check 15 days after the last date of the student's enrollment for that award period.

(3) If the student has not picked up the check at the end of the 15 day

period, the institution may credit the student's account for any amount owed to it for the award period.

(4) A student forfeits the right to receive any remaining Basic Grant payment if he/she has not picked up the check within the specified period of time.

(5) Notwithstanding subparagraph (4) of this paragraph, the institution may, if it chooses, pay a student who did not pick up the check, through the next payment period.

(20 U.S.C. 1070a.)

**§ 190.79 Affidavit of educational purpose.**

No Basic Grant may be paid unless the student has filed a notarized affidavit with the institution he/she attends which—

(a) Is on a form approved by the Commissioner;

(b) States that the grant money will be used solely for educational expenses at the institution; and

(c) Is notarized by someone who does not recruit students for the institution.

(20 U.S.C. 1088.g.)

**§ 190.80 Recovery of overpayments.**

(a) An institution is liable for an overpayment to a student if the regulations indicate that the payment should not have been made and the institution cannot collect the overpayment.

(b) If an institution makes an overpayment for which it is not liable, it must help the Commissioner recover the overpayment by—

(1) Making a reasonable effort to contact the student and recover the overpayment; and, if unsuccessful,

(2) Notifying the Commissioner of its attempt to recover the overpayment, and providing the Commissioner with the student's name, social security number, amount of overpayment and other relevant information.

(20 U.S.C. 1070a.)

**§ 190.81 Recalculation of a Basic Grant award.**

(a) *Change in expected family contribution.* (1) If the student's expected family contribution changes the institution must recalculate the Basic Grant Award.

(2) If the expected family contribution is recalculated because of—

(i) A clerical or arithmetic error under § 190.15, or

(ii) Extraordinary circumstances which affect the expected family contribution under §§ 190.39 and 190.48, the award is adjusted and the institution pays the student what he/she is entitled to for the award period.

(3) If a student's expected family contribution is recalculated because of a correction of the information re-

quested under §§ 190.12 or 190.77, the student's Basic Grant for the award period must be adjusted. Where possible, the adjustment must be made within the same award period. If the recalculation takes place in a subsequent award period, the student will be eligible to receive payment unless prohibited under the provisions of § 190.77(h) and will be required to return any overpayment at the time of recalculation.

(b) *Change in enrollment status.* If an institution decides that a student's enrollment status has changed during a payment period, it may (but is not required to) establish a policy under which the student's enrollment status may be recalculated. If such a policy is established, it must apply to all students. If a student's award is recalculated, the institution determines the total amount the student is entitled to for the entire payment period by taking into account—

(1) The portion of the payment period at the original enrollment status;

(2) The portion of the payment period at the new enrollment status; and

(3) Any change in the student's costs of attendance.

(20 U.S.C. 1070a.)

**§ 190.82 Fiscal control and fund accounting procedures.**

(a) An institution must deposit all Federal funds it receives under the Basic Grant, Supplemental Grant, College Work-Study and National Direct Student Loan programs in an account which includes only those funds. This account is subject to audit by the Commissioner.

(b) Funds received by an institution under this part are held in trust for the intended student beneficiaries and may not be used or hypothecated for any other purpose.

(20 U.S.C. 1070a.)

**§ 190.83 Maintenance and retention of records.**

(a) Each institution must maintain adequate records which include—

(1) The eligibility of all enrolled students who have applied for Basic Grants;

(2) The name, social security number and amount paid to each recipient;

(3) The amount and date of each payment;

(4) The amount and date of any overpayment that has been restored to the program account;

(5) The "Student Eligibility Report" for each student;

(6) The student's cost of attendance;

(7) How the student's full or part-time enrollment status was determined; and

(8) The student's enrollment period.

(b) The records listed in paragraph (a) will be available for inspection by the Commissioner's authorized representative at any reasonable time in the institution's offices. Records will be kept for five years after the institution submits an accounting of each award period's funds to the Commissioner.

(c) The records involved in any claim or expenditure questioned by Federal audit will be retained until resolution of any audit questions.

(d) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070a.)

#### § 190.84 Submission of reports.

The institution will submit the reports and information the Commissioner requires in connection with the funds advanced to it in accordance with § 190.74. The institution will comply with the procedures the Commissioner may find necessary to ensure that the reports are correct.

(20 U.S.C. 1070a.)

#### § 190.85 Audit and examination.

(a) *Federal audits.* The Secretary, the Comptroller General of the United States or their duly authorized representatives, will have access to the records specified in §§ 190.82 and 190.83 and to any other pertinent books, documents, papers and records.

(b) *Non-Federal audits.* All Basic Grant Program transactions will be audited by the institution or at the institution's direction to determine at a minimum—

(1) The fiscal integrity of financial transactions and reports; and

(2) If such transactions are in compliance with the applicable laws and regulations. Such audits will be performed in accordance with HEW's "Audit Guide" for student financial aid programs. The audit will be scheduled annually or, at least once every two years, depending on the size and complexity of the program.

(c) Audit reports will be submitted for review to the institution's local regional office of HEW's Audit Agency. The Audit Agency and the Commissioner will also be given access to records or other documents necessary to the audit's review.

(20 U.S.C. 1070a.)

#### Support H—Administration of Grant Payments—Alternate Disbursement System

#### § 190.91 Scope.

This subpart deals with program administration by an institution of higher education under the Alternate Disbursement System (ADS). Under the ADS, the Commissioner calculates and pays the Basic Grant funds.

(20 U.S.C. 1070a.)

#### § 190.92 Institutional agreement—Alternate Disbursement System (ADS).

Under ADS, the Commissioner will calculate and pay Basic Grant Awards to students enrolled in institutions which have entered into agreements to carry out this subpart, including—

(a) The completion of OE Form 304 for each eligible student, as specified in § 190.94; and

(b) The maintenance and retention of records as specified in § 190.96.

(20 U.S.C. 1070a.)

#### § 190.93 Change in ownership and change to the Regular Disbursement System (RDS).

(a) *Change to RDS.* The Commissioner may enter into an agreement with an ADS institution which wishes to participate in the program under the Regular Disbursement System. However, the agreement will go into effect July 1 of the succeeding award period.

(b) *Termination because of change in ownership that results in a change in control.* The agreement terminates when an institution changes ownership that results in a change in control. The Commissioner may enter into an agreement with the new owner if the institution complies with the requirements set forth in § 149.66 of the "Eligibility Regulations," (45 CFR 149.66).

(20 U.S.C. 1070a.)

#### § 190.94 Calculation and disbursement of awards by the Commissioner of Education.

(a) An eligible student enrolled in an institution participating in the Basic Grant Program under the ADS applies to the Commissioner for a Basic Grant according to the following procedures:

(1) The student submits an SER to his/her institution and obtains an OE Form 304 from the institution;

(2) The student completes the OE Form 304, including the affidavit of educational purposes as described under § 190.79, and submits it to the institution;

(3) On the OE Form 304 the institution certifies that the student—

(i) Meets eligibility requirements of § 190.4,

(ii) Is maintaining satisfactory progress in his/her course of study,

(iii) Does not owe a refund on grants received for attendance at that institution under the Basic Grant, the Supplemental Educational Opportunity Grant, or the State Student Incentive Grant Programs, and

(iv) Is not in default on any National Direct Student Loan made by the institution or on any Guaranteed Student Loan received for attendance at that institution. (In determining

whether a student is in default on a GSL, the institution may rely on a written statement provided by the student unless the institution has information to the contrary), and

(4) The institution returns the SER and OE Form 304 to the student, who then submits these documents to the Commissioner.

(b) If an institution believes that the information on an SER may be in error, the institution must notify the student and request documentation or correction. Any case not resolved by the institution should be reported to the Commissioner.

(c) The Commissioner will calculate a student's award in accordance with Subpart F of this part and will pay the student once every payment period.

(20 U.S.C. 1070a.)

#### § 190.95 Termination of enrollment and refund.

(a) The institution must inform the Commissioner of the date on which a student officially or unofficially withdraws or is expelled during a payment period for which that student was paid.

(b) A student who officially or unofficially withdraws or is expelled from an institution before completion of 50 percent of a payment period for which he/she has been paid, will refund a prorated portion of the payment as determined by the Commissioner.

(20 U.S.C. 1070a.)

#### § 190.96 Maintenance and retention of records.

(a) An institution under the ADS must establish and maintain—

(1) Records relating to each Basic Grant recipient's enrollment status, and attendance costs at the institution; and

(2) Records showing when each recipient was enrolled. These records must be available at the geographic location where the student will receive his/her degree or certificate of course completion, and must be kept for five years following a recipient's last date of enrollment.

(b) The institution will make available to the Commissioner, the Secretary of the Department of Health, Education and Welfare, the Comptroller General of the United States, and their authorized representatives, pertinent books, documents, papers and records for audit and examination during the five year retention period.

(c) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070a.)

[FR Doc. 78-12879 Filed 5-12-78; 8:45 am]



Division of Program Operations  
Bureau of Student Financial Assistance  
January 1978

NATIONAL DIRECT STUDENT LOAN PROGRAM

DEFAULT RATE

The National Direct Student Loan Program Default Rate is now being calculated by dividing the "remaining principal amount which has neither been paid nor cancelled on all notes in default" by the "total amount of matured paper." The "remaining principal amount which has neither been paid nor cancelled on all notes in default" means the total principal amount which has neither been paid nor cancelled on all notes where the borrowers failed to make an installment payment when due, and that failure persisted and was not cured either by payment or other appropriate arrangements for 120 days in the case of loans repayable in monthly installments, or for 180 days in the case of loans repayable in less frequent installments.

The "total amount of matured paper" means the total amount lent which has reached repayment status. The total amount which has reached repayment status is the total amount lent minus the amount not in repayment status because the borrower is in student status either at the institution which made the loan or another institution, or the borrower is in the grace period.

The specific data elements used to calculate the rate as of June 30, 1977, were taken from the National Direct Student Loan Program Fiscal-Operations Report submitted by participating institutions as of June 30, 1977, and the National Direct Student Loan Program Report of Defaulted Loans as of June 30, 1977, submitted by participating institutions, as follows:

- 1) The remaining principal amount which has neither been paid nor cancelled on all notes in default was determined from the Report of Defaulted Loans by subtracting the sum of line 1, column c, and line 2, column c, from the sum of line 1, column b, and line 2, column b; and
- 2) The total amount of matured paper was determined from the fiscal-operations report Part II, Section C, by subtracting the sum of line 3.1, column b, line 3.2, column b, and line 3.3, column b, from the amount in line 1, column b.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
BUREAU OF STUDENT FINANCIAL ASSISTANCE  
WASHINGTON, D.C. 20202

September 1, 1977

Dear Director:

Enclosed are two copies of the semi-annual "Report of Defaulted Loans", OE Form 574, for the National Defense/Direct Student Loan Program as of June 30, 1977. This is a new reporting requirement mandated under the Education Amendments of 1976 to provide information concerning loans made from your institution's loan fund which are in default. Please submit the original and two photo copies to the Washington, D. C. address shown on the report by no later than September 30, 1977.

You will note that there are two categories of information describing defaulted loans by length of time in default and frequency of installments. "In default" means that a borrower who has obtained a loan under the National Defense/Direct Student Loan Program has failed to make an installment payment when due and that neither payment nor other appropriate arrangements have been made for 120 days on loans repayable in monthly installments, or 180 days on loans repayable in less frequent installments.

This report will be used in conjunction with Part II, Section C, of the NDSL fiscal-operations report, OE Form 1152, which you recently filed for the period ending June 30, 1977, to compute your institution's delinquency rate as of that date. Since this information will be taken into consideration during the review of your tripartite application for new Federal capital contributions for the 1978-79 Award Period, it is of great importance that the information provided be accurate.

The next semi-annual report of defaulted loans will be for the six months period ending December 31, 1977. Forms will be sent to all participating institutions well in advance of the established due date for receipt of that report here in Washington.

If this report is to be prepared by the chief fiscal officer, please forward this report form and letter to the appropriate office. Any questions concerning this report may be directed to your regional office or you may contact this office by calling (202) 245-2432.

James G. Allen  
Chief, Program Support Branch  
Division of Student Financial Aid

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
WASHINGTON, D.C. 20202

**NATIONAL DIRECT STUDENT LOAN  
PROGRAM**

PLEASE  
READ  
INSTRUCTIONS  
BEFORE  
COMPLETING  
THIS FORM

COMPLETE THIS REPORT AND RETURN BY September  
30, 1977, ALL COPIES BUT YOUR OWN TO:

U.S. Office of Education  
Bureau of Student Financial Assistance  
Division of Student Financial Aid  
Program Support Branch  
Washington, D.C. 20202

NAME OF INSTITUTION	SERIAL NUMBER (DSFA)
ADDRESS (Include ZIP code)	ENTITY NUMBER (EN)

**REPORT OF DEFAULTED LOANS AS OF JUNE 30, 1977 (Cumulative)**

LENGTH OF TIME IN DEFAULT AND FREQUENCY OF INSTALLMENTS	ADP USE	NUMBER OF BORROWERS IN DEFAULT (a)	AMOUNT LENT (b)	PRINCIPAL AMOUNT REPAID OR CANCELLED (c)	PRINCIPAL AMOUNT IN DEFAULT (d)
1. 120 days or more (monthly installments)	2E010				
2. 180 days or more (other than monthly installments)	2E020				

**WARNING:** Any person who knowingly makes a false statement or misrepresentation on this form may be subject to a fine of up to \$10,000 or to imprisonment of up to 5 years or to both under provisions of the United States Criminal Code. Such provisions may include, among others, 18 U.S.C. 1001.

SIGNATURE OF DIRECTOR OF STUDENT FINANCIAL AID	TELEPHONE NO.		
	AREA CODE	NUMBER	EXTENSION
<b>OFFICIAL RESPONSIBLE FOR REPORT</b>			
SIGNATURE	TELEPHONE NO.		
	AREA CODE	NUMBER	EXTENSION
TYPE NAME AND TITLE	DATE SIGNED		

**INSTRUCTIONS**

This form shall be used by institutions participating in this program for reporting student loans which are in default as required under Section 463(a), 20 U.S.C. 1087CC, as amended by the Education Amendments of 1976. "In Default" means that (1) the borrower failed to make an installment payment when due, and (2) such failure persisted and was not cured either by payment or other appropriate arrangements for 120 days in the case of loans repayable in monthly installments, or for 180 days in the case of loans repayable in less frequent installments.

**ALL AMOUNTS SHOULD BE IN WHOLE DOLLARS ONLY.  
FOR EXAMPLE \$10,542 (NOT \$10,542.36 or \$10,542.00).**

Name and address of institution. Enter the name and address, including zip code, of your institution. If your Institution's name or address has changed, enter the old name or address in parentheses below the new.

Serial Number (DSFA): Enter only the LAST FOUR digits of the document number which identifies allocations awarded to your institution to operate the three college-based programs - NDSL, CWS and/or SEOG.

ENTITY NUMBER: Enter the nine-digit employer identification number assigned by the Internal Revenue Service, and the two digit suffix assigned by the DHEW Central Registry System.

Enter in Line 1, Column a, the actual unduplicated number of borrowers whose loans have been in default for 120 days or more, repayable on monthly installments. Enter in Column b, the total principal amount lent to those students, including any late charges added. Enter in Column c, the total principal amount repaid by those borrowers, either by cash or legal cancellation through teaching or military service. Enter in Column d, the principal amount in default. Include only the principal amount that should have been paid and is in default because of nonpayment. Do not include the entire principal amount even if that amount has been declared due and payable as the result of nonpayment.

Enter in Line 2, Column a, the actual unduplicated number of borrowers whose loans have been a default for 180 days or more, repayable in other than monthly installments. For the entries in Columns b, c, and d, refer to the instructions above regarding the entries on Line 1, Columns b, c, and d.

**PART II - NATIONAL DIRECT STUDENT LOAN PROGRAM (continued)**

PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM.

SERIAL NUMBER (DS-5)

NAME OF INSTITUTION

ADDRESS (Include ZIP code)

ENTITY NUMBER (EN)

1-

**SECTION C - CUMULATIVE REPAYMENT INFORMATION AS OF JUNE 30, 1977**

STATUS OF BORROWERS AS OF JUNE 30, 1977	ADP USE	NUMBER OF BORROWERS a	AMOUNT LENT b	PRINCIPAL AMOUNT REPAYED OR CANCELLED c	PRINCIPAL AMOUNT OUTSTANDING d	PRINCIPAL AMOUNT PAST DUE e	PRINCIPAL AMOUNT IN DELINQUENT STATUS f
1. TOTAL NUMBER OF BORROWERS AND AMOUNT ADVANCED	2C010						
2. BORROWERS WHOSE LOANS ARE FULLY RETIRED	2C020						
3. TOTAL BORROWERS NOT IN REPAYMENT STATUS (sum of lines 3.1 through 3.4)	2C030						
3.1 STUDENT STATUS AT YOUR INSTITUTION	2C031		X				
3.2 STUDENT STATUS AT ANOTHER INSTITUTION	2C032		X				
3.3 GRACE PERIOD	2C033		X				
3.4 DEFERMENT	2C034						
4. BORROWERS ON SCHEDULE IN REPAYMENT STATUS	2C040						
5. BORROWERS WHOSE ACCOUNTS ARE CURRENTLY PAST DUE - BY LENGTH OF TIME THAT ACCOUNT IS PAST DUE							
5.1 120 DAYS OR LESS	2C051						
5.2 121 DAYS UP TO ONE YEAR	2C052						
5.3 MORE THAN 1 YEAR UP TO 2 YEARS	2C053						
5.4 MORE THAN 2 YEARS UP TO 3 YEARS	2C054						
5.5 MORE THAN 3 YEARS UP TO 4 YEARS	2C055						
5.6 MORE THAN 4 YEARS UP TO 5 YEARS	2C056						
5.7 MORE THAN 5 YEARS	2C057						
5.8 TOTAL ACCOUNTS DELINQUENT (sum of lines 5.2 through 5.7)	2C058						
5.9 TOTAL ACCOUNTS PAST DUE (sum of lines 5.1 and 5.8)	2C059						

NATIONAL DIRECT STUDENT LOAN

DEFAULT WORKSHEET

Type: \_\_\_\_\_

Control: \_\_\_\_\_

OE FORM 574 REPORT OF DEFAULTED LOANS AS OF JUNE 30, 1977 (CUMULATIVE)

	Number of Borrowers in Default (a)	Amount Lent (b)	Principal Amount Repaid or Cancelled (c)	Principal Outstanding on Loans in Default (d)
1. 120 days or more (monthly installments)				XXXXXXXXXX
2. 180 days or more (other than monthly installments)				XXXXXXXXXX
3. Totals				

OE FORM 1152-2 FISCAL-OPERATIONS REPORT AS OF JUNE 30, 1977

PART II, SECTION C

- 4. Total amount lent (line 1b) \_\_\_\_\_
- 5. Amount lent - student status at your institution (line 3.1b) \_\_\_\_\_
- 6. Amount lent - student status at another institution (line 3.2b) \_\_\_\_\_
- 7. Amount lent - grace period (line 3.3b) \_\_\_\_\_
- 8. Total Matured Principal (line 4 minus sum of lines 5, 6 and 7) \_\_\_\_\_
- 9. Default Rate (line 3d ÷ line 8) \_\_\_\_\_ %

**U.S. DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
WASHINGTON, D.C. 20202**

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RATE - BOOK**



**END**