



Tuesday
June 23, 1998

Part II

**Department of
Education**

**34 CFR Part 379
Projects With Industry; Proposed Rule**

DEPARTMENT OF EDUCATION

34 CFR Part 379

RIN 1820-AB45

Projects With Industry

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the performance indicators for the Projects With Industry (PWI) program (34 CFR Part 379). The PWI program is authorized by section 621 of the Rehabilitation Act of 1973, as amended (the Act). The purpose of the PWI program is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform those jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement. The Secretary is proposing to change the performance indicators for this program in order to improve project performance, enhance project accountability, better reflect statutory intent, and reduce grantee burden.

DATES: Comments must be received by the Department on or before August 24, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Fredric K. Schroeder, Commissioner, Rehabilitation Services Administration, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3028, Mary E. Switzer Building, Washington, D.C. 20202-2531. Comments may also be sent through the Internet to: Comments@ed.gov. You must include the term "PWI" in the subject line of the electronic comment.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be

sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Thomas E. Finch, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3038, Mary E. Switzer Building, Washington, D.C. 20202-2575. Telephone: (202) 205-8292. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Overview of Proposed Changes**

The Secretary proposes to amend the regulations governing the application content requirements and performance indicators for the PWI program in order to clarify statutory intent, enhance project accountability, and reduce grantee burden.

In a notice of proposed rulemaking (NPRM) published in the **Federal Register** on January 22, 1996 (61 FR 1672), the Secretary invited comments on changes needed to improve the compliance indicators. The comments received in response to this solicitation, as well as comments provided by participants in focus group meetings held by the Rehabilitation Services Administration (RSA), were used to develop these proposed changes. In addition, the Secretary used a June 1994 report on the PWI program entitled "Assessment of Performance Indicators for the Projects With Industry Program," prepared for the Department by Research Triangle Institute (RTI), which identifies needed changes in the PWI performance indicators and scoring system. To assist in revising the compliance indicators and determining the proposed minimum performance levels, the Secretary also analyzed grantee performance on the current PWI compliance indicators.

Based on information from public comments, the 1994 report prepared by RTI, and experience in the implementation of the program, the Secretary is proposing one addition to the application content requirements and a number of changes in the compliance indicators. The Secretary believes that the additional application content requirement regarding the proposed cost per placement is needed in light of the proposed changes to the

compliance indicators and to ensure that cost-effective projects are selected for funding. The Secretary proposes to reduce the number of indicators from nine to five, with an additional indicator to be established at a later date. These compliance indicators establish minimum performance levels in areas that the Secretary believes are the most critical and most closely related to the program's purpose and evaluation standards. To be eligible for continued funding under the proposed system, projects must meet or exceed the minimum performance level for each compliance indicator. However, projects have two opportunities to meet these criteria before funding is terminated. If, based upon the end-of-year data submission, a project fails any compliance indicator, the project may request that funding be continued for the first six months of the subsequent project year and agree to submit additional data. At the end of the six-month period the project must submit the data collected for those six months to demonstrate that it has passed *all* the compliance indicators. If the project passes all the indicators, funding will continue for the remainder of the project year.

In this NPRM, the Secretary proposes minimum performance levels for five indicators. The proposed compliance indicators measure a project's (a) placement rate; (b) average change in weekly earnings; (c) percentage of individuals placed who have severe disabilities; (d) percentage of individuals placed who were unemployed at least six months at project entry; and (e) variation between projected and actual average cost per placement. In addition, the Secretary proposes to collect data from projects on change in earnings and job retention. The Secretary will use these data to determine the need, and appropriate performance levels, for new indicators on change in earnings and job retention.

Section-by-Section Summary of the Proposed Changes

The following is a summary of the proposed changes contained in this NPRM.

- In § 379.21(a)(4), the Secretary proposes to add an application content requirement that would require a description of the factors that justify a project's projected cost per placement. These factors may include the objectives of the project, the types of services that will be provided, the population that is being targeted, and the proposed geographicservice area. This is the only proposed addition to the current application content requirements.

- In § 379.50, the Secretary proposes to remove the reference to minimum composite score and replace it with a reference to minimum performance levels on all compliance indicators. Under the proposed system, grantees must attain a minimum performance level on each of the indicators rather than achieve an overall composite score. Grantees must pass every indicator in order to receive continuation funding.

- In §§ 379.51 and 379.52, the Secretary proposes to delete all references to performance ranges in accordance with the proposed change to a system in which grantees must pass all compliance indicators. The proposed change deletes the reference to composite scores and requires grantees to pass each indicator by demonstrating performance at or above the established minimum levels.

- In § 379.53, the Secretary proposes to replace the current nine performance indicators with five compliance indicators. The major areas of change are outlined in the following sections entitled "Compliance Indicators to Be Eliminated" and "Proposed Compliance Indicators and Performance Levels."

- In § 379.54, the Secretary proposes to make conforming changes to reflect the change from composite scoring to a pass/fail system. As under the current regulations, projects must submit data from the most recent complete project year to demonstrate compliance, but (if project performance during the most recent complete year does not meet minimum performance levels) may opt to submit data from the first six months of the current project year. In either case, projects must submit data to demonstrate compliance with minimum performance levels on all of the indicators.

Compliance Indicators To Be Eliminated

The Secretary proposes to replace the current nine indicators with five compliance indicators. In addition, the Secretary proposes to collect data that may lead to a modified indicator on change in earnings and data that may form the basis of a future indicator on job retention. Four compliance indicators would be eliminated, including cost per placement, projected placement rate, percent of persons served whose disabilities are severe, and percent of persons served who have been unemployed at least six months prior to project entry. The Secretary believes the proposed indicators better reflect the goals of the PWI program, place a greater emphasis on project outcomes, and reduce grantee

information collection and reporting burden.

The Secretary proposes to eliminate the cost per placement indicator and modify the projected cost per placement indicator. The Secretary maintains the importance of serving and placing individuals at the lowest possible cost to the Federal Government, but believes it is not feasible to establish a cost per placement standard that is reasonable for all projects supported under the PWI program. The Secretary recognizes that some projects may not be able to achieve a low cost per placement, particularly projects that serve a high percentage of individuals with severe disabilities, provide extensive services, or serve rural areas. In addition, the Secretary is concerned that a uniform cost per placement standard may discourage projects from serving individuals who require extensive support services, job training, and other resources. Therefore, the Secretary believes it is more appropriate for grantees to determine an appropriate cost per placement and justify the proposed cost, based on the proposed project design and objectives, service population, and services to be provided. The proposed indicator would require that a project's actual cost per placement not exceed the projected cost per placement, as specified in the approved grant application, by more than 10 percent.

The Secretary also proposes to eliminate the indicator on projected placement rate. The Secretary believes it is more appropriate to focus on a project's actual, rather than projected, success in placing individuals in competitive employment.

Finally, the Secretary proposes to eliminate the two indicators that measure the extent to which projects serve individuals with severe disabilities and individuals who have been unemployed at least six months prior to project entry. While the Secretary believes that it is important to preserve the program's focus on individuals with severe disabilities and individuals who are unemployed, the Secretary believes it is more appropriate to judge projects based on the extent to which they are successful in assisting these individuals to achieve competitive employment. The Secretary therefore proposes to retain the two compliance indicators that measure the percentage of these individuals who are placed into competitive employment.

Proposed Compliance Indicators and Performance Levels

The proposed compliance indicators would measure grantee performance in

five areas. The Secretary believes that the proposed indicators represent the most critical quantifiable aspects of project performance. In establishing minimum performance levels on each indicator, the Secretary reviewed project performance data, public comment in response to the NPRM published in the **Federal Register** on January 22, 1996, focus group discussions, and the RTI report.

Placement rate. The Secretary proposes to retain the current placement rate indicator and raise the minimum performance level. The primary goal of the PWI program is to place individuals into competitive employment. Therefore, the Secretary views placement rate as a critical indicator of project success. Under the proposed indicator, projects would be required to place a minimum of 55 percent of individuals served into competitive employment.

While higher than the current minimum placement rate of 40 percent, the Secretary believes the proposed performance level is both appropriate and realistic. Between 1990 and 1995, PWI projects reported an average placement rate of 61.2 percent. In comparison, in 1996 approximately 60.7 percent of individuals served by The State Vocational Rehabilitation Services Program achieved an employment outcome. The Secretary believes the partnerships with private industry and collaboration with State vocational rehabilitation agencies will enable every PWI project to achieve, at a minimum, the proposed placement rate of 55 percent. In addition, given the proposal to give more flexibility to projects on cost per placement (discussed in the following sections), the Secretary believes it is appropriate to raise performance expectations, particularly on this critical indicator.

Average change in earnings. The Secretary proposes to modify the current indicator that measures average change in earnings by raising the minimum performance level. The current minimum performance level requires an average increase of \$75 per week. The proposed regulations would change the required minimum performance level to \$150 per week for projects that do not use a school-to-work or supported employment service delivery model. That is, the earnings of individuals who are placed into competitive employment by the project must increase by an average of at least \$150 a week over earnings at the time of project entry. Concurrently, the Secretary proposes to collect data to determine the need for additional changes to this indicator.

The Secretary believes that the proposed increase in the minimum performance level is appropriate given both inflation and increases in the minimum wage since the original performance level for this indicator was set in 1989. In addition, the Secretary believes this proposed performance level is realistic based on project performance data that demonstrate an overall average change in earnings of \$183 and \$195 per week in fiscal years 1993 and 1994, respectively.

The Secretary proposes to establish a lower performance level on this indicator for PWI projects that primarily serve secondary school students transitioning to work or that use a supported employment model. Based on a review of these types of projects, the Secretary has concluded that, by virtue of the individuals they serve and place, these projects might have difficulty meeting the change in earnings standard. The Secretary does not want to exclude these types of projects from the PWI program and, therefore, proposes a lower minimum performance level of \$100 per week for these projects. Specifically, the Secretary proposes this lower standard for projects in which 75 percent or more of the individuals placed into competitive employment are students who are enrolled in secondary schools and who are working fewer than 30 hours per week and for projects in which at least 75 percent of individuals are placed into supported employment, as defined in 34 CFR 361(b)(45) and (46). All other projects will be subject to the higher standard.

In addition to these changes, the Secretary is proposing to collect data to assess the need to modify the change in earnings indicator to measure change in earnings for two groups: (1) individuals who entered a project without earnings and (2) individuals who entered a project with earnings. The Secretary believes such a two-tiered indicator may be a more accurate means of measuring a project's impact on individual earnings. This proposed data collection is discussed in more detail in the section entitled "Proposed Data Collection on Change in Earnings and Job Retention."

Percent of individuals placed who are individuals with severe disabilities and percent of persons placed who have been unemployed for six months prior to project entry. The Secretary proposes to retain these two indicators at the current minimum performance level, which requires that 50 percent of those placed into competitive employment are individuals with severe disabilities and 50 percent are individuals who have

been unemployed continuously for six months prior to project entry. The Secretary believes that it is appropriate to preserve the program's emphasis on placing into competitive employment individuals with severe disabilities and individuals who are unemployed for at least six months prior to program entry.

Actual versus projected cost per placement. The Secretary proposes to revise the current indicator on projected cost per placement. The proposed indicator would require that a project's actual cost per placement not exceed the projected cost per placement, as specified in the approved grant application, by more than 10 percent. That is, the actual average cost per placement does not exceed 110 percent of the projected cost per placement.

The Secretary proposes to allow each project to determine what is a reasonable cost per placement, based on factors such as project objectives, population and geographic area to be served, and services to be provided. As part of its grant application, a project would be required to provide a description of those factors that justify its projected cost per placement, including, but not limited to, the project's objectives, types of services, target population, and service area. A project chosen for funding would not be permitted to exceed by more than 10 percent, the projected cost per placement in its approved grant application. The Secretary believes that this revised approach to cost per placement allows flexibility in project design while encouraging each project to consider cost effectiveness in the development of its grant application.

Proposed Data Collection on Change in Earnings and Job Retention

In addition to the five compliance indicators, the Secretary is concurrently proposing to collect data to determine the need to modify the change in earnings indicator and to add an additional indicator on job retention.

Change in earnings. While the current change in earnings indicator may demonstrate the average economic benefit of a project, the Secretary believes it does not measure the true extent to which the project improved the earnings of individual participants. The change in earnings as a result of project participation is likely to be significantly different for individuals who were unemployed at the time of project entry and who came to the project for job training and placement services than it is for individuals who held a wage-earning job at the time of project entry and who required career advancement services. The Secretary is

considering the establishment of a two-tiered indicator to measure more adequately the effect of project services on the earnings of these two populations. However, the Secretary does not have sufficient data on which to base such a decision.

Concurrent with the proposed application content and compliance indicator changes, the Secretary proposes to collect data to determine the need for a modification to the change in earnings indicator to measure project performance for two groups: individuals who entered the project without earnings and individuals who entered with earnings. The Secretary proposes to require projects to report the following data for the next three years:

(1) For individuals with no earnings at the time of project entry, average hourly wage and average hours worked per week at placement.

(2) For individuals with earnings at the time of project entry, the average hourly wage and average hours worked per week, both at the time of project entry and at placement.

The Secretary plans to use these data to decide whether a two-tiered indicator would be a more accurate means of gauging the earnings impact of the job training and career advancement services provided through the PWI program, and what performance levels would be appropriate for such an indicator.

Job retention. The Secretary is concurrently proposing to collect data to determine the need to modify the change in earnings indicator and whether to add an additional indicator on job retention. The Secretary believes job retention is a critical indicator of project success because it demonstrates the *quality* of placements achieved by projects. A high job retention rate may indicate consumer satisfaction with the placement, appropriate job matching, and effective follow-up services.

In order to sample projects' job retention rates, the Secretary proposes that projects report the number of individuals who become unemployed within three months after placement, within six months after placement, and within nine months after placement.

In accordance with § 379.5(b)(7), placement occurs after the individual has held the job for 90 days. The intent of the 90-day period is to ensure that an individual is at least initially stabilized on a job. The proposed data collection would require projects to track each individual for up to nine months after placement or up to one year after the individual's initial job entry. At the end of the year, the project must report three separate figures:

- The number of individuals who were unable to maintain employment during the first three-month period after placement (the fourth through sixth months of employment).

- The number of individuals who were unable to maintain employment during the second three-month period after placement (the seventh through ninth month of employment).

- The number of individuals who were unable to maintain employment during the third three-month period after placement (the tenth through twelfth month of employment).

For the purpose of this data collection, an individual can change jobs and still be considered to be employed as long as there is no gap in employment.

In order to include all placements, projects may have to include individuals who were unable to maintain employment during the reporting year but who obtained placements in the previous reporting year. For example, if the reporting year is from October 1997 to September 1998, an individual who was placed in August 1997 but left the job in December 1997 would be reported as someone who was unable to maintain employment during the second three-month period after placement.

The Secretary does not believe this will be a significant burden to projects, since under section 621(a)(2)(E) projects are required to provide, as necessary, support and career advancement services to individuals after they are placed. In addition, as part of the annual evaluation plan, projects must provide information on the number of project participants who were terminated from project placements and the duration of those placements. The Secretary thus believes projects already track individuals after they are placed.

The job retention indicator would be established after the Secretary has collected and evaluated data for at least three years. Once collection and analysis of the data are completed, the Secretary would determine whether to establish a new indicator to measure job retention.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goals that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The proposed regulations would further the objectives of this Goal by ensuring that only those projects that are successful in making persons with disabilities part of the global economy and in allowing them to exercise their rights as citizens to participate in the national labor market continue to receive Federal funding.

Executive Order 12866

1. Potential Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995*.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

Summary of Potential Costs and Benefits

The potential costs and benefits of these proposed regulations are discussed elsewhere in this preamble under the following headings: Overview of proposed changes, and Potential costs and benefits.

The Secretary believes the changes proposed in this NPRM would improve

the PWI program regulations and would yield substantial benefits in terms of improved accountability and performance and reduced burden. As stated in the supplementary information section of this preamble, the Secretary believes the proposed regulations reduce grantee burden by reducing the number and complexity of the compliance indicators and improve accountability by focusing on the most critical areas of project performance. The Secretary has determined that the potential benefits of these proposed changes justify the potential costs to grantees.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "S" and a numbered heading; for example, § 379.51 *What are program compliance indicators?*). (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the proposed regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5121, FB-10B), Washington, D.C. 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are government, nonprofit, and for-profit organizations that receive Federal

funds under this program. However, the regulations would not have a significant economic impact on these entities because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. These regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

Sections 379.21 and 379.54 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Projects With Industry

These proposed regulations would affect entities eligible to apply for and receive grants under the PWI program, including for-profit and nonprofit agencies or organizations with the capacity to create and expand job and career opportunities for individuals with disabilities, designated State units, labor unions, employers, community rehabilitation program providers, trade associations, and Indian tribes and tribal organizations. These information collection requirements would affect applicants for new awards and organizations and entities already receiving assistance under the PWI program.

The Department needs to collect this information in order to fulfill statutory requirements regarding the compliance indicators (in section 621(f) of the Act). All information is to be collected and reported once a year, with the exception of that which is required of all applicants for new awards in § 379.21(a). This section requires responses from every organization or entity that applies for a new award under the PWI program. Annual reporting and recordkeeping burden for these collections of information is estimated to average 30 hours for each response for 105 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for these collections is estimated to be 3,150 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of

Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of Education.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room

3330, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or, toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 379

Education, Grant programs—
education, Grant programs—social
programs, Reporting and recordkeeping
requirements, Vocational rehabilitation.

Dated: February 5, 1998.

Judith E. Heumann,

*Assistant Secretary for Special Education and
Rehabilitative Services.*

(Catalog of Federal Domestic Assistance
Number 84.234 Projects With Industry)

The Secretary proposes to amend Part
379 of Title 34 of the Code of Federal
Regulations as follows:

**PART 379—PROJECTS WITH
INDUSTRY**

1. The authority citation for part 379
continues to read as follows:

Authority: Sections 12(c) and 621 of the
Act; 29 U.S.C. 711(c) and 795(g), unless
otherwise noted.

2. Section 379.21 is revised to read as
follows:

**§ 379.21 What is the content of an
application for an award?**

(a) The grant application must include
a description of—

(1) The proposed job training to
prepare project participants for specific
jobs in the competitive labor market for
which there is a need in the geographic
area to be served by the project, as
identified by an existing current labor
market analysis or other needs
assessment or one conducted by the
applicant in collaboration with private
industry;

(2) The involvement of private
industry in the design of the proposed
project and the manner in which the
project will collaborate with private
industry in planning, implementing,
and evaluating job training, job
placement, and career advancement
activities;

(3) The responsibilities of the BAC
and how it will interact with the project
in carrying out grant activities;

(4) The justification of the project's
proposed cost per placement, including
factors such as the project's objectives,
types of services, target population, and
service area;

(5) The geographic area to be served
by the project, including an explanation
of how the area is currently unserved or
underserved by the PWI program;

(6) A plan for evaluating annually the
operation of the proposed project,
which, at a minimum, provides for
collecting and submitting to the
Secretary the following information and
any additional data needed to determine
compliance with the program

compliance indicators established in
subpart F:

(i) The numbers and types of
individuals with disabilities served.

(ii) The types of services provided.

(iii) The sources of funding.

(iv) The percentage of resources
committed to each type of service
provided.

(v) The extent to which the
employment status and earning power
of individuals with disabilities changed
following services.

(vi) The extent of capacity building
activities, including collaboration with
business and industry and other
organizations, institutions, and
agencies, including the State vocational
rehabilitation unit.

(vii) A comparison, if appropriate, of
activities in prior years with activities in
the most recent year.

(viii) The number of project
participants who were terminated from
project placements and the duration of
those placements;

(7) A description of the manner in
which the project will address the needs
of individuals with disabilities from
minority backgrounds, as required by 34
CFR 369.21; and

(8) A description of how career
advancement services will be provided
to project participants.

(b) The grant application also must
include assurances from the applicant that—

(1) The project will carry out all
activities required by § 379.10;

(2) Individuals with disabilities who
are placed by the project will receive
compensation at or above the minimum
wage, but not less than the customary or
usual wage paid by the employer for the
same or similar work performed by
individuals who are not disabled;

(3) Individuals with disabilities who
are placed by the project will be given
terms and benefits of employment equal
to those that are given to similarly
situated co-workers and will not be
segregated from their co-workers; and

(4) The project will maintain any
records required by the Secretary and
make those records available for
monitoring and audit purposes.

(Authority: Sections 621(a)(4), 621(a)(5),
621(b), and 621(e)(1)(B) of the Act; 29 U.S.C.
795g(a)(4), 795g(a)(5), 795g(b), and
795g(e)(1)(B))

3. Subpart F of Part 379 is revised to
read as follows:

**Subpart F—What Compliance Indicator
Requirements Must a Grantee Meet to
Receive Continuation Funding?**

379.50 What are the requirements for
continuation funding?

379.51 What are the program compliance
indicators?

379.52 How is grantee performance
measured using the compliance
indicators?

379.53 What are the minimum performance
levels for each compliance indicator?

379.54 What are the reporting requirements
for the compliance indicators?

**Subpart F—What Compliance Indicator
Requirements Must a Grantee Meet to
Receive Continuation Funding?****§ 379.50 What are the requirements for
continuation funding?**

Beginning with fiscal year 1998, in
order to receive a continuation award
for the third or any subsequent year of
a PWI grant, a grantee must adhere to
the provisions of its approved
application and must meet the
minimum performance levels on the
program compliance indicators
contained in § 379.53.

(Authority: Section 621(f)(1) of the Act; 29
U.S.C. 795g(f)(1))

**§ 379.51 What are the program compliance
indicators?**

The program compliance indicators
implement program evaluation
standards, which are contained in an
appendix to this part, by establishing
minimum performance levels in
essential project areas to measure the
effectiveness of individual grantees.

(Authority: Sections 621(d)(1) and 621(f)(1)
of the Act; 29 U.S.C. 795g(d)(1) and
795g(f)(1))

**§ 379.52 How is grantee performance
measured using the compliance indicators?**

(a) Each compliance indicator
establishes a minimum performance
level.

(b) If a grantee does not achieve the
minimum performance level for a
compliance indicator, the grantee does
not pass the compliance indicator.

(c) A grantee must pass all the
compliance indicators to meet the
evaluation standards and qualify for
continuation funding.

(Authority: Section 621(f)(1) of the Act; 29
U.S.C. 795g(f)(1))

**§ 379.53 What are the minimum
performance levels for each compliance
indicator?**

(a) *Placement rate.* A minimum of 55
percent of individuals served by the
project are placed into competitive
employment.

(b) *Change in earnings.* (1) For
projects in which at least 75 percent of
individuals placed are placed into
supported employment, as defined in 34
CFR 361.5(b)(45) and (46), the earnings
of individuals placed by the project
increase by an average of at least
\$100.00 a week over earnings at the time
of project entry.

(2) For projects in which at least 75 percent of individuals placed into competitive employment are students enrolled in secondary schools working fewer than 30 hours per week, the earnings of individuals placed by the project increase by an average of at least \$100.00 a week over earnings at the time of project entry.

(3) For all projects not covered under § 379.53(b)(1) or (2), the earnings of individuals who are placed into competitive employment by the project increase by an average of at least \$150.00 a week over earnings at the time of project entry.

(c) *Percent placed who have severe disabilities.* At least 50 percent of individuals who are placed into competitive employment are individuals with severe disabilities.

(d) *Percent placed who were previously unemployed.* At least 50 percent of individuals who are placed into competitive employment are individuals who were continuously

unemployed for at least six months at the time of project entry.

(e) *Cost per placement.* The actual average cost per placement does not exceed 110 percent of the projected average cost per placement in the grantee's application.

(Authority: Section 621(f)(1) of the Act; 29 U.S.C. 795g(f)(1))

§ 379.54 What are the reporting requirements for the compliance indicators?

(a) In order to receive continuation funding for the third or any subsequent year of a PWI grant, each grantee must submit data for the most recent complete project year no later than 60 days after the end of that project year, unless the Secretary authorizes a later submission date, in order for the Secretary to determine if the grantee has met the program compliance indicators established in this Subpart F.

(b) If the data for the most recent complete project year provided under paragraph (a) of this section shows that

a grantee has failed to achieve the minimum performance required in § 379.53 to meet the program compliance indicators, the grantee may, at its option, submit data from the first 6 months of the current project year no later than 60 days after the end of that 6-month period, unless the Secretary authorizes a later submission date, to demonstrate that its project performance has improved sufficiently to meet the minimum performance levels for all compliance indicators.

(Authority: Section 621(f)(2) of the Act; 29 U.S.C. 795g(f)(2))

Note: A grantee receives its second year of funding (or the first continuation award) under this program before data from the first complete project year is available. Data from the first project year, however, must be submitted and is used (unless the grantee exercises the option in paragraph (b) of this section) to determine eligibility for the third year of funding (or the second continuation award).

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