



Federal Register

**Friday,
June 23, 2000**

Part III

Department of Education

**34 CFR Part 373
Special Demonstration Programs;
Proposed Rule**

DEPARTMENT OF EDUCATION**34 CFR Part 373****Special Demonstration Programs**

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to implement regulations governing the Special Demonstration Programs. These regulations are needed to implement the changes in the Rehabilitation Act Amendments of 1998. The proposed regulations would provide definitions and requirements for grants and contracts under the expanded authority for the Special Demonstration Programs.

DATES: We must receive your comments on or before September 21, 2000.

ADDRESSES: Address all comments about these proposed regulations to Tammy Nelson, U.S. Department of Education, 400 Maryland Avenue, SW., room 3214 Switzer Building, Washington, DC 20202-2575. If you prefer to send your comments through the Internet, use the following address: Tammy_Nelson@ed.gov

FOR FURTHER INFORMATION CONTACT: Thomas E. Finch, Ph.D., 400 Maryland Avenue, SW., room 3038 MES, Washington, DC 20202-2575. Telephone: (202) 205-8292. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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:**Invitation To Comment**

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirements of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while

preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in the Mary E. Switzer Building, room 3038, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply 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 record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205-8113 or (202) 260-9895. If you use a TDD, you may call the Federal Information Relay Service at 1-800-877-8339.

Need To Regulate

These proposed regulations would implement changes to the Rehabilitation Act of 1973 (Act) made by the Rehabilitation Act Amendments of 1998, enacted as part of the Workforce Investment Act of 1998 (Pub. Law 105-220), on August 7, 1998, and as further amended in 1998 by technical amendments in the Reading Excellence Act and the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1998 (hereinafter collectively referred to as the 1998 Amendments).

There have been significant changes and expanded authority for Special Demonstration Programs found in section 303(b) of the Act. The purpose of the program retains its focus on the expansion and improvement of rehabilitation services; however, the purpose of the program now includes the expansion and improvement of other services authorized under the Act. The amended regulations give the Secretary greater flexibility in making awards that are relevant and responsive to the purpose of the program and current needs of individuals with disabilities. This additional flexibility is used in determining eligible entities (§ 373.2), the definition of "rehabilitation services" (§ 373.4), and priorities for competitions (§ 373.6). For example, in § 373.6(b)(16), the Secretary would be permitted to identify priorities other than those specifically listed in § 373.6. This flexibility in identifying additional priorities would allow the

Secretary to be responsive to recent legislative mandates and short-term or unanticipated needs of individuals with disabilities. In addition, the Secretary could fund projects that use new developments in the rehabilitation field after the publication of these regulations, i.e., new research findings, technical advances in assistive devices, and innovative methods developed by successful grant projects.

In addition, these proposed regulations would provide needed definitions and clarification of the terms and conditions for applicants for the Special Demonstration Programs.

The following provisions of these proposed regulations are based entirely on the Act:

§ 373.1
 § 373.2(a)(1) through (5)
 § 373.3
 § 373.5
 § 373.10
 § 373.21
 § 373.24

The remaining provisions are based on a combination of statutory authority and the Secretary's authority under section 12(c) of the Act to establish policy by regulating.

Section 373.4—Definitions for Special Demonstration Programs

This section contains terms from the Act and other terms that may be used in applying for a grant and administering a grant project. The definitions would provide potential applicants and grantees with the knowledge to better meet the priorities and service requirements for competitions and activities.

Section 373.6—Priorities and Other Factors for Competitions

Some of the listed priorities under the Special Demonstration Programs are specifically authorized by the Act. Others are based on current trends and needs relative to services for individuals with disabilities and on accepted methods of improving and expanding those services. For example, Replication Projects are included as a priority in these regulations even though there is no corresponding language in the Act. It is anticipated the replication of successful projects will lead to the expansion and improvement of rehabilitation and other services since the replication must pertain to different populations than the original project, such as in different geographical areas or for different disability groups. The replication and expansion of previously successful projects is consistent with the overall purpose of the Special Demonstration Programs.

Pursuant to § 373.6, the Secretary may announce priorities without further public comment. Additional information and requirements pertinent to the priorities would be announced in the **Federal Register** and in the application package for a given competition. These requirements would be based on the needs identified by the Secretary at the time of publication of the **Federal Register** announcement.

Section 373.11—Other Factors Considered by the Secretary

These proposed regulations would inform the potential applicant of information the Secretary may consider, in addition to the peer review scores, when making an award.

Section 373.20—Match

Although match is not a requirement under the Act, the Secretary may decide to institute a matching requirement and publish the requirement in the **Federal Register** when announcing a competition under the Special Demonstration Programs. The required match would not exceed 10 percent of the total project costs. The matching funds may be provided in cash or in-kind.

Section 373.21—Reporting Requirements

Under section 306 of the Act, the Secretary may require that recipients of grants under this title submit information, including data, necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act of 1993 (GPRA). Government agencies are required to establish performance indicators to be used in measuring or assessing the relevant results, service levels, and outcomes of each program, such as the Special Demonstration Programs. These performance indicators would allow Congress to identify waste and inefficiency, as well as strong performance results in Federal programs. The Department is developing a uniform data collection instrument for use by grantees under this program in the future. This instrument will be published in the **Federal Register** for public comment. The inclusion of § 373.21 emphasizes the authority for the Secretary to require needed information.

Section 373.22—Limits on Indirect Costs

The Secretary is proposing to limit indirect cost reimbursement for grants under this program to the recipient's actual indirect costs, as determined by

its negotiated indirect cost rate agreement, or 10 percent of the total direct cost base, whichever amount is less. This would allow maximum use of program funds to serve individuals with disabilities. The Secretary does not believe that this would adversely affect potential applicants under this program.

Section 373.23—Additional Requirements

Additional requirements for grantees are listed in § 373.23 which, with the exception of paragraph (a)(4) of this section, are required by the Act or have historically been required in regulations pertaining to the Special Demonstration Programs. Evaluative information required by paragraph (a)(4) of this section would be important in determining any significant impact Special Demonstration projects have on services to individuals with disabilities and in identifying the outcomes and benefits of a project as other organizations consider replication. In addition, evaluative information would be important as the Secretary considers future funding of individual grantees. Paragraph (b) of this section restates the prohibition on the awarding of subgrants included in the *Education Department General Administrative Regulations* in 34 CFR 75.708. The Secretary believes the requirement should be emphasized here to enhance clarity for grantees regarding applicable regulations.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the 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 Goal that every adult American will possess the knowledge and skills necessary to compete in a global economy. These proposed regulations would further the objectives of this Goal by implementing programs to provide vocational rehabilitation services and other services to provide increased employment opportunities for individuals with disabilities.

Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998, on "Plain Language in Government Writing" require 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:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- 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 we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 373.10 *What selection criteria does the Secretary use?*)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

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 proposed regulations would provide funding to organizations to meet the needs of individuals with disabilities through discretionary grants.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

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

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed

regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet 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 Adobe Acrobat Reader, 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 (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.235 Special Demonstration Programs)

List of Subjects in 34 CFR Part 373

Grant programs—education,
Vocational rehabilitation.

Dated: June 19, 2000.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

For the reasons discussed in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 373 to read as follows:

PART 373—SPECIAL DEMONSTRATION PROGRAMS

Subpart A—General

Sec.

- 373.1 What is the purpose of the Special Demonstration Programs?
373.2 Who is eligible for assistance?
373.3 What regulations apply?
373.4 What definitions apply?
373.5 Who is eligible to receive services and to benefit from activities conducted by eligible entities?
373.6 What are the priorities and other factors and requirements for competitions?

Subpart B—How Does the Secretary Make a Grant?

- 373.10 What selection criteria does the Secretary use?
373.11 What other factors does the Secretary consider when making a grant?

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

- 373.20 What are the matching requirements?
373.21 What are the reporting requirements?
373.22 What are the limitations on indirect costs?
373.23 What additional requirements must be met?
373.24 What are the special requirements pertaining to the protection, use, and release of personal information?

Authority: 29 U.S.C. 773(b), unless otherwise noted.

Subpart A—General

§ 373.1 What is the purpose of the Special Demonstration Programs?

The purpose of this program is to provide competitive grants to, or enter into contracts with, eligible entities to expand and improve the provision of rehabilitation and other services authorized under the Rehabilitation Act of 1973, as amended (Act), or to further the purposes and policies in sections 2(b) and (c) of the Act by supporting activities that increase the provision, extent, availability, scope, and quality of rehabilitation services under the Act, including related research and evaluations activities.

(Authority: 29 U.S.C. 701(b) and (c), 711(c), and 773(b))

§ 373.2 Who is eligible for assistance?

(a) The following types of organizations are eligible for assistance under this program:

- (1) State vocational rehabilitation agencies.
- (2) Community rehabilitation programs.
- (3) Indian tribes or tribal organizations.
- (4) Other public or nonprofit agencies or organizations, including institutions of higher education.
- (5) For-profit organizations, if the Secretary considers them to be appropriate.
- (6) Consortia that meet the requirements of 34 CFR 75.128 and 75.129.
- (7) Other organizations identified by the Secretary and published in the **Federal Register**.

(b) In competitions held under this program, the Secretary may limit competitions to one or more types of these organizations.

(c) In competitions held under this program, the Secretary may limit competitions to one or more types of these organizations.

(d) In competitions held under this program, the Secretary may limit competitions to one or more types of these organizations.

(Authority: 29 U.S.C. 711(c) and 773(b)(2))

§ 373.3 What regulations apply?

The following regulations apply to this program:

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

(1) 34 CFR part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations).

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

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

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

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 35 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(10) 34 CFR part 97 (Protection of Human Subjects).

(11) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(12) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 373.

(c) The regulations in 48 CFR part 31 (Contracts Cost Principles and Procedures).

(Authority: 29 U.S.C. 711(c))

§ 373.4 What definitions apply?

The following definitions apply to this part:

Act means the Rehabilitation Act of 1973, as amended.

(Authority: 29 U.S.C. 701 *et seq.*)

Early intervention means a service delivery or model demonstration program for adults with disabilities designed to begin the rehabilitation services as soon as possible after the onset or identification of actually or potentially disabling conditions. The populations served may include, but are not limited to, the following:

(a) Individuals with chronic and progressive diseases that may become more disabling, such as multiple sclerosis, progressive visual disabilities, or HIV positive.

(b) Individuals in the acute stages of injury or illness, including, but not limited to, diabetes, traumatic brain injury, stroke, burns, or amputation.

(Authority: 29 U.S.C. 711(c))

Employment outcome is defined in 34 CFR 361.5.

(Authority: 29 U.S.C. 711(c))

Informed choice means the provision of activities whereby individuals with disabilities served by projects under this part have the opportunity to be active, full partners in the rehabilitation process, making meaningful and informed choices as follows:

(a) During assessments of eligibility and vocational rehabilitation needs.

(b) In the selection of employment outcomes, services needed to achieve the outcomes, entities providing these services, and the methods used to secure these services.

(Authority: 29 U.S.C. 711(c))

Individual with a disability is defined as follows:

(a) For an individual who will receive rehabilitation services under this part, an individual with a disability means an individual—

(1) Who has a physical or mental impairment which, for that individual, constitutes or results in a substantial impediment to employment; and

(2) Who can benefit in terms of an employment outcome from vocational rehabilitation services.

(b) For all other purposes of this part, an individual with a disability means an individual—

(1) Who has a physical or mental impairment that substantially limits one or more major life activities;

(2) Who has a record of such an impairment; or

(3) Who is regarded as having such an impairment.

(c) For purposes of paragraph (b) of this definition, projects that carry out services or activities pertaining to Title V of the Act must also meet the requirements for “an individual with a disability” in section 7(20)(c) through (e) of the Act, as applicable.

(Authority: 29 U.S.C. 705(20)(A) and (B))

Individual with a significant disability means an individual—

(a) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury,

heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

(Authority: 29 U.S.C. 705(21)(A))

Rehabilitation services means services provided to an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. Rehabilitation services for an individual with a disability may include—

(a) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(b) Counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(c) Referral and other services to secure needed services from other agencies;

(d) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(e) Vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials;

(f) Diagnosis and treatment of physical and mental impairments;

(g) Maintenance for additional costs incurred while the individual is receiving services;

(h) Transportation;

(i) On-the-job or other related personal assistance services;

(j) Interpreter and reader services;

(k) Rehabilitation teaching services, and orientation and mobility services;

(l) Occupational licenses, tools, equipment, and initial stocks and supplies;

(m) Technical assistance and other consultation services to conduct market analysis, develop business plans, and otherwise provide resources to eligible

individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(n) Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(o) Transition services for individuals with disabilities that facilitate the achievement of employment outcomes;

(p) Supported employment services;

(q) Services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome;

(r) Post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment; and

(s) Expansion of employment opportunities for individuals with disabilities, which includes, but is not limited to—

(1) Self-employment, business ownership, and entrepreneurship;

(2) Non-traditional jobs, professional employment, and work settings;

(3) Collaborating with employers, Economic Development Councils, and others in creating new jobs and career advancement options in local job markets through the use of job restructuring and other methods; and

(4) Other services as identified by the Secretary and published in the **Federal Register**.

(Authority: 29 U.S.C. 711(c) and 723(a))

Substantial impediment to employment means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's capacities and abilities.

(Authority: 29 U.S.C. 705(20)(A))

Youth or Young adult with disabilities means individuals with disabilities who are between the ages of 16 and 26 inclusive when entering the program.

(Authority: 29 U.S.C. 711(c) and 723(a))

§ 373.5 Who is eligible to receive services and to benefit from activities conducted by eligible entities?

(a)(1) For projects that provide rehabilitation services or activities to expand and improve the provision of rehabilitation services and other services authorized under Titles I, III, and VI of the Act, individuals are eligible who meet the definition in paragraph (a) of an “individual with a disability” as stated in § 373.4.

(2) For projects that provide independent living services or activities,

individuals are eligible who meet the definition in paragraph (b) of an "individual with a disability" as stated in § 373.4.

(3) For projects that provide other services or activities that further the purposes of the Act, individuals are eligible who meet the definition in paragraph (b) of an "individual with a disability" as stated in § 373.4.

(b) By publishing a notice in the **Federal Register**, the Secretary may identify individuals determined to be eligible under one or more of the provisions in paragraph (a) of this section.

(Authority: 29 U.S.C. 711(c) and 723(a))

§ 373.6 What are the priorities and other factors and requirements for competitions?

(a)(1) In making an award, the Secretary may limit competitions to, or otherwise give priority to, one or more of the priority projects listed in paragraph (b) of this section that are identified by the Secretary and published in a notice in the **Federal Register**.

(2) The Secretary also will identify in the notice the following:

(i) Specific required priority project activities authorized under section 303 of the Act that the applicant must conduct for the priority project to be approved for funding.

(ii) Any of the additional factors listed in paragraph (c) of this section that the Secretary may consider in making an award.

(b) Priority projects are as follows:

- (1) Special projects of service delivery.
- (2) Model demonstration.
- (3) Technical assistance.
- (4) Systems change.
- (5) Special studies, research, or evaluations.
- (6) Dissemination and utilization.
- (7) Replication.
- (8) Special projects and demonstration of service delivery for adults who are low-functioning and deaf or low-functioning and hard of hearing.
- (9) Supported employment.
- (10) Model transitional rehabilitation services for youth and young adults with disabilities.
- (11) Expansion of employment opportunities for individuals with disabilities, as authorized in paragraph (s) of the definition of "rehabilitation services" as stated in § 373.4.

(12) Projects to promote meaningful access of individuals with disabilities to employment-related services under Title I of the Workforce Investment Act of 1998 and under other Federal laws.

(13) Innovative methods of promoting achievement of high-quality employment outcomes.

(14) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

(15) Projects to find alternative methods of providing affordable transportation services to individuals with disabilities.

(16) Other projects that will expand and improve the provision, extent, availability, scope, and quality of rehabilitation and other services under the Act or that further the purpose and policy of the Act as stated in section 2(b) and (c) of the Act.

(c) The Secretary may identify and publish in the **Federal Register** for specific projects listed in paragraph (b) of this section one or more of the following factors, including any specific elements defining any factor (e.g., the Secretary may identify ages 16 through 21 to be the specific age range for a particular competition):

- (1) Specific stages of the rehabilitation process.
- (2) Unserved and underserved populations.
- (3) Unserved and underserved geographical areas.
- (4) Individuals with significant disabilities.
- (5) Low-incidence disability populations.
- (6) Individuals residing in federally designated Empowerment Zones and Enterprise Communities.
- (7) Types of disabilities.
- (8) Specific age ranges.
- (9) Other specific populations and geographical areas.

(d) The Secretary may require that an applicant certify that the project does not include building upon or expanding activities that have previously been conducted or funded, for that applicant or in that service area.

(e) The Secretary may require that the project widely disseminate the methods of rehabilitation service delivery or model proven to be effective, so that they may be adapted, replicated, or purchased under fee-for-service arrangements by State vocational rehabilitation agencies and other disability organizations in the project's targeted service area or other locations.

(Authority: 29 U.S.C. 711(c) and 773(b)(4) and (5))

Subpart B—How Does the Secretary Make a Grant?

§ 373.10 What selection criteria does the Secretary use?

The Secretary publishes in the **Federal Register** or includes in the application package the selection criteria for each competition under this

program. To evaluate the applications for new grants under this program, the Secretary may use the following:

(a) Selection criteria established under 34 CFR 75.209.

(b) Selection criteria in 34 CFR 75.210.

(c) Any combination of selection criteria from paragraphs (a) and (b) of this section.

(Authority: 29 U.S.C. 711(c) and 723(a))

§ 373.11 What other factors does the Secretary consider when making a grant?

(a) The Secretary funds only those applications submitted in response to competitions announced in the **Federal Register**.

(b) The Secretary may consider the past performance of the applicant in carrying out activities under previously awarded grants.

(c) The Secretary awards bonus points if identified and published in the **Federal Register** for specific competitions.

(Authority: 29 U.S.C. 711(c) and 723(a))

Subpart C—What Conditions Must Be Met By a Grantee?

§ 373.20 What are the matching requirements?

The Secretary may make grants to pay all or part of the cost of activities covered under this program. If the Secretary determines that the grantee is required to pay part of the costs, the amount of grantee participation is specified in the application notice, and the Secretary will not require grantee participation to be more than 10 percent of the total cost of the project.

(Authority: 29 U.S.C. 711(c) and 723(a))

§ 373.21 What are the reporting requirements?

(a) In addition to the program and fiscal reporting requirements in EDGAR that are applicable to projects funded under this program, the Secretary may require that recipients of grants under this part submit information determined by the Secretary to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.

(b) Specific reporting requirements for competitions will be identified by the Secretary and published in the **Federal Register**.

(Authority: 29 U.S.C. 711(c) and 776)

§ 373.22 What are the limitations on indirect costs?

(a) Indirect cost reimbursement for grants under this program is limited to the recipient's actual indirect costs, as

determined by its negotiated indirect cost rate agreement, or 10 percent of the total direct cost base, whichever amount is less.

(b) Indirect costs in excess of the 10 percent limit may be used to satisfy matching or cost-sharing requirements.

(c) The 10 percent limit does not apply to federally recognized Indian tribal governments and their tribal representatives.

(Authority: 29 U.S.C. 711(c))

§ 373.23 What additional requirements must be met?

(a) Each grantee must do the following:

(1) Ensure equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disabilities.

(2) Encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disabilities.

(3) Advise individuals with disabilities who are applicants for or recipients of the services, or the applicants' representatives or the individuals' representatives, of the availability and purposes of the Client Assistance Program, including information on means of seeking assistance under that program.

(4) Provide, through a careful appraisal and study, an assessment and evaluation of the project that indicates the significance or worth of processes, methodologies, and practices implemented by the project.

(b) A grantee may not make a subgrant under this part. However, a grantee may contract for supplies, equipment, and other services, in accordance with 34 CFR part 74, subpart C—Post-Award Requirements, Procurement Standards.

(Authority: 29 U.S.C. 711(c) and 717)

§ 373.24 What are the special requirements pertaining to the protection, use, and release of personal information?

(a) All personal information about individuals served by any project under

this part, including lists of names, addresses, photographs, and records of evaluation, must be confidential.

(b) The use of information and records concerning individuals must be limited only to purposes directly connected with the project, including project reporting and evaluation activities. This information may not be disclosed, directly or indirectly, other than in the administration of the project unless the consent of the agency providing the information and the individual to whom the information applies, or his or her representative, has been obtained in writing. The Secretary or other Federal officials responsible for enforcing legal requirements have access to this information without written consent being obtained. The final products of the project may not reveal any personal identifying information without written consent of the individual or his or her representative.

(Authority: 29 U.S.C. 711(c))

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BILLING CODE 4000-01-P