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Friday  
July 10, 1998

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**Part III**

**Department of  
Education**

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**34 CFR Part 304  
Special Education; Personnel Preparation  
to Improve Services and Results for  
Children With Disabilities; Proposed Rule**

## DEPARTMENT OF EDUCATION

## 34 CFR Part 304

RIN 1820-AB46

**Special Education—Personnel Preparation To Improve Services and Results for Children with Disabilities**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to establish regulations governing specific provisions of the Personnel Preparation Program to Improve Services and Results for Children with Disabilities. The regulations are needed to implement recently enacted changes to the Individuals with Disabilities Education Act (IDEA or the Act) that were adopted as part of the IDEA Amendments of 1997. Specifically, the regulations would establish procedures to implement section 673(h) of IDEA which requires that individuals who receive a scholarship through personnel preparation projects funded under the Act must subsequently provide special education and related services to children with disabilities (or, for leadership personnel, work in areas related to their preparation) for a period of two years for every year for which assistance was received. Scholarship recipients who do not satisfy their service obligation must repay all or part of the cost of their assistance in accordance with regulations issued by the Secretary. These proposed regulations would implement requirements governing, among other things, the service obligation for scholars, oversight by grantees, repayment (or "payback") of scholarship, and procedures for obtaining deferrals or exemptions from service or repayment obligations.

**DATES:** Comments must be received by the Department on or before September 8, 1998.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Sherron Dunmore, U.S. Department of Education, 600 Independence Avenue, SW., Room 4628, Switzer Building, Washington, DC 20202-2641. Comments may also be sent through the Internet: [comments@ed.gov](mailto:comments@ed.gov)

You must include the term "payback" in the subject line of your electronic message.

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:**

Renee Bradley, U.S. Department of Education, 600 Independence Avenue, Washington, DC 20202-2641. Telephone: (202) 358-2849. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-9374 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.

*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 3070, Mary E. Switzer Building, 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.

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.

**SUPPLEMENTARY INFORMATION:** IDEA personnel training grants are intended to increase the number and quality of personnel available to provide special education and related services to children with disabilities, to provide early intervention services to infants and toddlers with disabilities, and their

families, and to serve in leadership positions in special education, related, or early intervention services. Shortages in school districts across the country of qualified personnel who can address the educational needs of children with disabilities are well documented. In the past, however, some individuals who received financial support through IDEA in order to obtain degrees or other types of certification subsequently entered careers in which they did not focus on serving children with disabilities under IDEA.

Section 673(h) of the Act was adopted as part of the IDEA Amendments of 1997 as a means of ensuring that individuals who receive scholarships under IDEA-supported personnel training projects provide special education or related services to children with disabilities under Part B of the Act or early intervention services to infants and toddlers with disabilities, and their families, under Part C of the Act. Similarly, individuals who receive scholarships under IDEA training projects for leadership personnel must work in an area related to their preparation. Scholarship recipients who choose not to enter the special education, related service, or early intervention field are obligated to pay back their scholarship so that IDEA personnel training monies may be preserved for purposes of increasing the availability of individuals qualified to provide services under IDEA.

**Subpart A—General**

As stated in proposed § 304.1, individuals who receive scholarship assistance from projects funded under the Personnel Preparation to Improve Services and Results for Children with Disabilities Program (program) are required to complete a service obligation, or repay all or part of the costs of such assistance. The service requirement included in the proposed regulations would apply to individuals who receive scholarship assistance from a funded project. Under the proposed regulations, scholarships could be awarded only to individuals pursuing degrees, licenses, certifications, or endorsements related to special education, related services, or early intervention services. An individual who receives training under an IDEA-funded personnel preparation project, but does not receive a scholarship from that project, would not be subject to the service obligation or payback requirements in the proposed regulations.

Proposed § 304.2, which restates section 673(a) of the Act, identifies the

program and the purposes for which the program provides financial assistance.

Proposed § 304.3 would define key terms used in this part of the regulations.

The definitions of the terms "related services" and "special education" would be the same as those used in Part B of the Act, while the proposed definition of "early intervention services" would be the same as that used in Part C of the Act.

The proposed definition of "academic year"—a full-time course of study taken for a period totaling at least nine months or for the equivalent of at least two semesters, two trimesters, or three quarters—is based on the standard term typically used in university settings.

The proposed regulations would require scholars to work full-time in a special education, related service, or early intervention position following their training in order to ensure that scholarship recipients focus on providing services to children with disabilities during the period in which they are fulfilling their service obligation. The term "full-time" would mean a full-time equivalent position as defined by the individual's employer or by the agencies served by the individual. The definition is intended to recognize the wide variety of special education, related service, or early intervention settings in which scholars might work subsequent to their training. In some instances, it should be straightforward to determine whether an individual works for one employer (e.g., a school or school district) in a full-time equivalent position or works part-time for multiple employers and the proportion to a full-time equivalent for each position add up to one full-time equivalent job. In other instances, particularly when a self-employed individual provides related services to children with disabilities under Part B, it may be more difficult to determine whether the individual works on a full-time basis. In that case, full-time equivalency would be determined by the school district or agency with which the individual is associated to provide Part B or Part C services. Questions as to whether an individual's job or jobs meets the full-time equivalent requirement shall be determined by the grantee institution from which the individual received his or her scholarship. Nonetheless, the Secretary is particularly interested in public comment on the requirement that IDEA scholars provide special education, related services, or early intervention services on a full-time basis and seeks suggestions as to how full-time equivalency should be measured.

The proposed definition of "scholarship" is based on the definition of that term used in other Department of Education programs, and would include all disbursements or credits for tuition, fees, student stipends, and books, and for travel in conjunction with training assignments.

It should be noted that the term "scholarship" does not include funding to support assistantships for graduate students at institutions of higher education (IHE). Because funding for graduate assistants is conditioned on the individual performing work for the IHE, the service obligation in the proposed regulations does not apply to that type of financial support. Otherwise, the graduate assistants would be required to perform dual service obligations: work for the IHE during training and work in the special education field after training. The Secretary believes that financial support to students enrolled in IDEA personnel training projects must be used primarily for scholarship recipients who will be subject to the service obligation under the Act. Thus, in order to maximize funds available for scholars who must work in the special education, related service, or early intervention field, funding for graduate assistants is not considered "scholarship" assistance. IHE grantees that choose to use IDEA funds to pay graduate assistants to assist in facilitating or administering projects must classify those funds as personnel costs in their grant applications rather than as "scholarship" or "student support."

#### **Subpart B—What Conditions Must Be Met by the Grantee?**

Section 304.20 reflects the Secretary's intention to announce for each personnel training grant competition a specific percentage, up to 75 percent, of a grantee's total award that must be used to support scholarships. In interpreting the IDEA Amendments of 1997, the Secretary believes that Congress intended that a large portion of IDEA personnel training funds be used to support scholarships in order to ensure that a greater number of qualified individuals will serve children with disabilities under Parts B and C of the Act. The Secretary shall determine the appropriate percentage of grant funds that must be set-aside for scholarships based on the type of projects that will be funded under a given grant competition and on the Secretary's interest in maximizing the number of scholars who will subsequently work in special education, related service, or early intervention jobs. The proposed provision would allow the Secretary to

award grants that use less than the published percentage to pay for scholarships in light of the unique nature of a particular project. For example, a project in which IDEA funds support only university training expenses, while an additional funding source finances student stipends, may be exempted from the published percentage. The Secretary notes, however, that because financial support for graduate assistants is not considered scholarship assistance (see previous discussion), such costs may not be paid from the minimum percentage of grant funds that must be used to support scholarships.

Proposed § 304.21 stipulates the types of costs that would be allowable under program grants. In short, project funds may be used to support costs that are allowable under 34 CFR 75.530 through 75.562 of the Education Department General Administrative Regulations (EDGAR) and to support scholarships (i.e., tuition, fees, student stipends, and books, and travel in conjunction with training assignments).

Proposed § 304.22 identifies requirements that grantees must meet in disbursing scholarships. Proposed paragraph (a) would require grantees to ensure that scholarship recipients satisfy certain citizenship or residency requirements. Proposed paragraph (b) would require grantees to limit the individual's scholarship assistance to the amount by which the cost of attendance at the institution exceeds the amount of any grant assistance the individual receives under Title IV of the Higher Education Act. Proposed paragraph (c) would limit scholarship assistance to an individual's cost of attendance for no more than four academic years total, with exceptions for extensions that are consistent with accommodations provided by the grantee under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

Proposed § 304.23 lists the assurances that must be provided by a grantee intending to provide scholarships. Under proposed paragraph (a), grantees would be required to enter into a written agreement with each scholar who receives a scholarship through an IDEA-supported personnel training project. That agreement would specify the terms and conditions applicable to the scholarship, including the individual's service obligation and responsibility to pay back the scholarship if the individual fails to satisfy that obligation.

Proposed paragraph (b) would identify the service obligation requirements as they apply to

scholarship recipients under IDEA personnel training grants. Specifically, the proposed provision, which is based on the service obligation requirements stated in section 673(h) of the Act, would require that any individual who receives a scholarship from a training project that prepares personnel to serve children with low- or high-incidence disabilities (section 673(b) and (e) of the Act) or, in appropriate instances as determined by the Secretary, from a training project of national significance (section 673(d) of the Act) shall subsequently maintain employment: (1) By providing special education and related services to children with disabilities or early intervention services to infants and toddlers, and their families; (2) on a full-time basis; and (3) for a period of at least two years for every year for which assistance was received. The service obligation would apply beginning after the recipient completes his or her training and would need to be completed within the number of years of required service (2 years per year of assistance) plus an additional three years. For example, a scholar who received two academic years of scholarship support would have to perform four years of service within seven years from the time the scholar's training ended.

The Secretary has clarified in the proposed regulations that scholars may fulfill their service obligation by providing early intervention services under Part C of the Act. Although section 673(h) of the Act states that individuals must "provide special education and related services to children with disabilities", IDEA clearly authorizes personnel training projects to prepare personnel to provide early intervention services to infants and toddlers with disabilities, and their families. The Secretary believes Congress intended to apply the service obligation and payback requirements to those who receive scholarships from early intervention personnel training projects and that early intervention scholars must be permitted to fulfill their service obligation by working in the field in which they have been trained.

The requirements in proposed paragraph (b)(2) are particularly important to determining whether a former scholar's job would satisfy the service obligation requirements in the proposed regulations. That provision would require scholars to fulfill their service obligation by working in a position or positions "in which a majority of the persons to whom the individual provides services are receiving from the individual special

education and related services as defined in Part B of the Act or early intervention as defined in Part C of the Act." In other words, a majority of a teacher's students, or a majority of a service provider's caseload, must be children or infants and toddlers with disabilities. Moreover, the former scholar must actually be providing special education, related services, or early intervention services to those individuals. The Secretary considers this requirement essential in order to ensure that IDEA scholarship monies are used to alleviate shortages of qualified special education, related service, or early intervention personnel. The Secretary is concerned that without this requirement scholars could potentially meet the service obligation without addressing the needs of children with disabilities in any measurable way. For example, serving as a regular education teacher in a class with a sole disabled student, the Secretary believes, is not the type of placement envisioned under section 673(h) of the statute. An IDEA-supported scholar is free to choose such a profession, but would be required to pay back to the Department the amount of scholarship assistance received. On the other hand, an individual who teaches regular and special education classes, and a majority of the teacher's students are receiving special education services from the teacher, would satisfy the proposed service obligation requirement. Similarly, a speech-language pathologist who serves both children and adults with disabilities would satisfy the service obligation provided a majority of the provider's caseload are special education students under Part B or infants and toddlers with disabilities under Part C.

Because scholars who enter leadership positions in special education do not typically serve a classroom or caseload of students, proposed paragraph (b)(3) would apply a somewhat different standard to the service obligation for those who receive scholarships from leadership training projects (section 673(c) of the Act). Such scholars would be required to work full-time, for a period of at least two years for each year of assistance, in a position (or positions) in which a majority of the scholar's time is expended on work related to his or her training (i.e., special education, related service, or early intervention leadership). Determinations as to whether a former scholar in a leadership position meets this time requirement, or whether any scholar meets applicable service

requirements, would be made by the grantee institution.

Proposed § 304.23(b)(4) would clarify that the service obligation requirements as applied to part-time scholars will be based on the accumulated academic years of training for which the scholarship is received. As an example, the service obligation for a scholarship recipient enrolled half-time in a training project over four years would be based on two full academic years of training, meaning that the individual must work four years (two years of service per year of assistance) in the special education, related service, or early intervention field, or pay back the scholarship.

Proposed section § 304.23(c) through (f) would respectively identify grantee assurances related to: scholarship repayment, the grantee's standards for measuring a scholar's academic progress, the grantee's system for tracking compliance with the service obligation requirements, and the grantee's procedures for notifying scholars in writing of their service obligation upon their exit from the training project. A grantee would provide assurances to the Secretary that it has established policies or procedures to address each of these requirements, and the remaining requirements in § 304.23, prior to receiving a training grant under IDEA.

Proposed § 304.23(g) and (h) would identify the requirements governing maintenance and submission of information related to each scholarship recipient. Examples include letter form, grantee-developed forms, electronic communications, and other appropriate forms that enable grantees to monitor compliance of scholars with the proposed regulations.

Proposed § 304.23(i) would require grantees to notify the Secretary at the time an individual has failed to fulfill or has chosen not to fulfill the applicable service obligation within the time period specified under paragraph (b)(1)(iii) or (b)(3)(iii) so that the Secretary may initiate repayment procedures.

The Secretary emphasizes that both the Act and the proposed regulations hold grantee institutions responsible for ensuring that scholarship recipients satisfy their service requirements. Accordingly, the requirements of § 304.23 are those that the Secretary considers necessary for grantees to monitor the compliance of individual scholars with their statutory and regulatory obligations.

### Subpart C—What Conditions Must Be Met by the Scholar?

Proposed § 304.30 would specify the requirements that a scholar must meet in order to receive a scholarship under the program. Specifically, scholars must: be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services (§ 304.30(a)); enter into with the grantee a written agreement setting forth the service obligation requirements (§ 304.30(b)); receive the applicable training at the educational institution or agency designated in the scholarship (§ 304.30(c)); not accept educational allowances from any other entity if that allowance conflicts with the individual's obligations under the program (§ 304.30(d)); maintain satisfactory progress toward the relevant degree, certificate, endorsement, or license (§ 304.30(e)); and provide any information that the grantee needs in order to track the scholar's progress in meeting the service obligation (§ 304.30(f)).

Proposed § 304.31 would identify the circumstances under which a scholar, who has yet to complete the service obligation, may receive a deferral or exemption to the repayment requirement.

If a former scholar fails to satisfy the applicable service obligation, or fails to obtain an authorized deferral or exception, the scholar must repay the scholarship to the Secretary in accordance with requirements in proposed § 304.32. Proposed paragraph (a) of this section would require that the repayment amount be proportional to the service obligation that the scholar has failed to complete. For example, if a scholar receives two academic years of scholarship assistance, teaches special education for two years (rather than the requisite four), then stops working or changes careers (in a field unrelated to special education, related service, or early intervention), the individual would be required to pay back one-half of the scholarship assistance received.

Proposed § 304.32(b) through (d) would specify the requirements governing the accrual of interest and assessment of costs that would be included as part of the individual's payback obligation. Proposed § 304.32(e) would list the various points at which a scholar enters repayment status.

Finally, proposed § 304.32(f) would authorize the Secretary to establish a repayment schedule that a scholar in repayment status must follow.

### 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 as 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.

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 following is an analysis of the costs and benefits of the proposed regulations that are intended to implement the statutory changes made by the IDEA Amendments of 1997. Based on this analysis, the Secretary has concluded that the proposed regulations do not impose significant costs to grantees under this program. An analysis of the specific provisions follows:

Proposed § 304.1 describes the purposes of the regulations. The regulations reflect the essential purpose of the statute, which is to ensure that individuals who receive scholarship assistance from projects funded under the Personnel Preparation to Improve Services and Results for Children with Disabilities Program complete a service obligation, or repay all or part of the costs of such assistance. Any and all benefits and costs associated with this statutory requirement or the proposed regulations flow from this basic requirement. The primary beneficiaries of this requirement would be children with disabilities and their families. In order for the Federal government to

justify the expenditure of public funds under this program, certain procedures and documentation are necessary to ensure that goals of the program are achieved. Since the primary goal of this program is to train personnel to provide special education, early intervention, and related services to children with disabilities, Congress has determined that individuals who benefit from financial assistance under this program should return the benefits of that assistance in their field of training. The primary benefit of these regulations is to establish a process to implement this requirement.

The cost of this requirement will be borne by the Federal government, by grantees who administer scholarship programs, and by individuals who receive scholarships from those grantees.

The costs to grantees will be in establishing written agreements with scholars before awarding scholarships, establishing and maintaining information systems for tracking the academic progress of scholars during training and tracking the progress of scholars in meeting their service obligations following training, and in reporting to the Secretary when a scholar fails to fulfill the service obligation.

The costs to individual scholarship recipients will be in satisfying the service obligation following training, providing information to the grantee until completion of the service obligation, and in repaying scholarship assistance if the scholar fails to fulfill the service obligation.

Specific estimates of the costs associated with the regulations affecting each of these parties is provided below. One person hour is assumed to cost \$15.00 on average.

Proposed § 304.2 identifies the program and the purposes for which the program provides financial assistance and has no costs associated with it.

Proposed § 304.3 provides definitions of key terms and has no costs associated with it.

Proposed § 304.20 provides information about how the Secretary will set parameters on the proportion of grant funds that must be used for scholarship assistance. Proposed § 304.21 identifies allowable costs under grants. No particular benefits or costs are associated with these provisions.

Proposed § 304.22 includes requirements that grantees must meet in disbursing scholarships, including determining the status of citizenship and eligibility of a scholar for Federal assistance. The regulations would specify citizenship or resident criteria

for receiving scholarship assistance. An estimated 1,000 person-hours per year would be required, at an estimated cost of \$15,000 per year for all grantees.

Proposed § 304.23 includes assurances that must be provided by a grantee that intends to provide scholarships. The scholar and the grantee benefit from this provision which ensures that each has a clear understanding of each party's responsibilities prior to the awarding of a scholarship. An estimated 7,500 person-hours per year would be required, at an estimated cost of \$112,500 per year for all grantees.

Proposed § 304.23(b)(3) includes requirements for fulfilling the service obligation as it relates to individuals trained under section 673(c) of the Act, leadership training. No additional costs are associated with this provision.

Proposed § 304.23(b)(4) clarifies that the service obligation requirement as applied to a part-time scholar will be based on the accumulated academic years of training for which the scholarship is received. This provision does not impose costs on grantees or scholars.

Proposed § 304.23(c) through (f) include provisions relating to repayment of all or part of any scholarship received in the event that the service obligation is not fulfilled. The Federal agency must collect repayment of scholarship funds from a scholar who fails to meet the service obligation. Grantees must establish policies and procedures, including a tracking system, to determine the compliance of scholars with the terms of the agreement the scholars entered with the grantee. This one-time cost will vary considerably depending on existing data systems at grantee institutions. An estimated 12,500 person-hours per year would be required, at an estimated cost of \$187,500 per year for all grantees. Grantees must establish policies and procedures for receiving written exit certification from scholars that identifies, among other things, the number of years the scholar needs to work to fulfill the service obligation. An estimated 10,000 person-hours per year would be required, at an estimated cost of \$150,000 per year for all grantees.

Proposed § 304.23(g) and (h) require the grantee to provide necessary information on a scholar, upon request of the Secretary, and to maintain such information for a period of time equal to the time required to fulfill the service obligation. An estimated 100,000 person-hours per year would be required, at an estimated cost of \$1,500,000 per year for all grantees.

Under § 304.23(i), the grantee must inform the Secretary if a scholar fails to fulfill the service obligation. Starting in the fourth or fifth year of the program, an estimated 1,500 person-hours per year would be required for an approximation of 75 cases per year, at an estimated cost of \$22,500 in staff time and correspondence for all grantees.

Proposed § 304.30(a) through (f) require that a scholar: be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services; enter into a written agreement with the grantee before starting training; and be trained at the educational institution or agency designated in the scholarship. These decisions are made by scholars in advance of accepting scholarship assistance and are conditions for receiving such assistance. Therefore no costs are associated with the requirements under this provision.

Proposed § 304.31 would provide procedures whereby a scholar could request a deferral or exception to performance of the service obligation or repayment. The costs associated with this requirement would be negligible.

Proposed § 304.32(a) through (d) delineate the monetary payback provisions that would apply if a scholar failed to meet the terms and conditions of a scholarship agreement or to obtain a deferral or an exception to performance or repayment. There are no additional costs associated with these provisions.

Proposed § 304.32(e) specifies when a scholar enters repayment status. Proposed § 304.32(f) requires the scholar to make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary. There are no additional costs associated with these provisions.

## 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 "§" and a numbered heading; for example, § 304.23 *What assurances must be provided by a grantee that intends to provide scholarships?*) (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, SW. (room 5121, FB-10B), Washington, DC 20202-2241.

## Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. The entities that would be affected by these proposed regulations are institutions of higher education that participate in programs under Part D of IDEA. These institutions are defined as "small entities," according to the U.S. Small Business Administration Size Standards, if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. These proposed regulations impose minimal requirements to implement the statutory provisions and would not have a significant economic impact on the small entities affected.

## Paperwork Reduction Act of 1995

Sections 304.22, 304.23, 304.30, 304.31, and 304.32 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. The Secretary notes that each grantee has the discretion to determine the method(s) by which it will collect and maintain information.

## Collection of Information: Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities

Annual reporting and record keeping burden for this collection of information is estimated to average 285 hours per

year per grantee, or 142,500 hours for 500 grantees. The burden for scholars is approximately 1.3 hours per year for each scholar, or a total of 10,000 hours for a projected 7,500 scholars per year. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the various collections of information. Thus, the total annual reporting and record keeping burden for this collection at the full operation of the program is estimated to be 157,500 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, DC 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
- 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.

#### 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 at (202) 512-1530 or, 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 304

Grant programs—children with disabilities, special education, Personnel preparation, Reporting and record keeping requirements.

Dated: June 24, 1998.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

(Catalog of Federal Domestic Assistance Number 84.325, Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising Part 304 to read as follows:

### PART 304—SPECIAL EDUCATION—PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

#### Subpart A—General

Sec.

304.1 Purpose.

304.2 What is the Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program?

304.3 What regulations apply to this part?

304.4 What definitions apply?

#### Subpart B—What Conditions Must Be Met by the Grantee?

304.20 What are the requirements for directing grant funds?

304.21 What are allowable costs?

304.22 What are the requirements for grantees in disbursing scholarships?

304.23 What assurances must be provided by a grantee that intends to provide scholarships?

#### Subpart C—What Conditions Must Be Met by the Scholar?

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**Authority:** (20 U.S.C. 1473).

#### Subpart A—General

##### § 304.1 Purpose.

Individuals who receive scholarship assistance from projects funded under the Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program are required to complete a service obligation, or repay all or part of the costs of such assistance, in accordance with section 673(h) of the Individuals with Disabilities Education Act and the regulations of this part.

(Authority: 20 U.S.C. 1473(h))

##### § 304.2 What is the Special Education—Personnel Preparation to Improve Services and Results for Children With Disabilities Program?

The Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program (program) provides financial assistance under section 673 of the Act to—

(a) Help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and

(b) Ensure that those personnel have the skills and knowledge, derived from

practices that have been determined, through research and experience, to be successful, that are needed to serve those children.

(Authority: 20 U.S.C. 1473(a))

**§ 304.3 What definitions apply to this program?**

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

Applicant  
Award  
Department  
EDGAR  
Grantee  
Project  
Recipient  
Secretary

(b) The following definitions apply to this program: *Academic year* means a full-time course of study—

(1) Taken for a period totaling at least nine months; or

(2) Taken for the equivalent of at least two semesters, two trimesters, or three quarters.

*Act* means the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*

*Early intervention services* means early intervention services as defined in section 632(4) of the Act.

*Full-time*, for purposes of determining whether an individual is employed full-time in accordance with § 304.23, means a full-time equivalent position as defined by the individual's employer or by the agencies served by the individual.

*Payback* means monetary repayment of scholarship assistance in lieu of completion of a service obligation.

*Related services* means related services as defined in section 602(22) of the Act.

*Scholar* means an individual who is pursuing a degree, license, endorsement, or certification related to special education, related services, or early intervention services and who receives scholarship assistance under this part.

*Scholarship* means financial assistance to a scholar for training under the program and includes all disbursements or credits for tuition, fees, student stipends, and books, and travel in conjunction with training assignments.

*Service obligation* means a scholar's employment obligation, as described in section 673(h) of the Act and § 304.23(b) of this part.

*Special education* means special education as defined in section 602(25) of the Act.

(Authority: 20 U.S.C. 1473(h))

**§ 304.4 What regulations apply to this program?**

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in the following part of title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) Part 75 (Direct Grant Programs).

(3) Part 77 (Definitions That Apply to Department Regulations).

(4) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

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

(6) Part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

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

(9) Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 304.

(Authority: 20 U.S.C. 1473; 20 U.S.C. 3474(a))

**Subpart B—What Conditions Must Be Met by the Grantee?**

**§ 304.20 What are the requirements for directing grant funds?**

(a) The Secretary shall, as appropriate, identify in a notice published in the **Federal Register**, the percentage (up to 75 percent) of a total award under the program that must be used to support scholarships as defined in § 304.3.

(b) The Secretary may award grants that use less than the percentage published under paragraph (a) of this section for scholarships based upon the unique nature of a project.

(Authority: 20 U.S.C. 1473(h))

**§ 304.21 What are allowable costs?**

In addition to the allowable costs established in the Education Department General Administrative Regulations in 34 CFR 75.530 through 75.562, the following items are allowable expenditures by projects funded under the program:

(a) Tuition and fees.

(b) Student stipends and books.

(c) Travel in conjunction with training assignments.

(Authority: 20 U.S.C. 1473(h))

**§ 304.22 What are the requirements for grantees in disbursing scholarships?**

Before disbursement of scholarship assistance to an individual, a grantee shall—

(a) Ensure that the scholar—

(1) Is a citizen or national of the United States;

(2) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(3) Has a permanent or lasting—as distinguished from temporary—principal, actual dwelling place in fact, without regard to intent, in the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau (during the period in which those entities are eligible to receive an award under the program) or the Commonwealth of the Northern Mariana Islands.

(b) Limit scholarship assistance to the amount by which the individual's cost of attendance at the institution exceeds the amount of grant assistance the scholar is to receive for the same academic year under Title IV of the Higher Education Act;

(c) Limit scholarship assistance to the individual's cost of attendance at the institution, consistent with paragraph (b), for no more than a total of four academic years, except that the grantee may provide an extension consistent with the institution's accommodations under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, if the grantee determines that an individual has a disability that seriously affects the completion of the course of study;

(d) Obtain a Certification of Eligibility for Federal Assistance from each scholar, as prescribed in 34 CFR 75.60, 75.61, and 75.62.

(Authority: 20 U.S.C. 1473)

**§ 304.23 What assurances must be provided by a grantee that intends to provide scholarships?**

A grantee that intends to grant scholarships under the program shall provide the following assurances before receiving an award:

(a) *Requirement for agreement.* Each scholar who will receive a scholarship will first enter into a written agreement with the grantee that contains the terms and conditions required by this section.

(b) *Terms of the agreement.* Each agreement under paragraph (a) of this section shall contain, at a minimum, the following provisions:



(1) Individuals who receive scholarship assistance from projects funded under section 673(b) and (e), and to the extent determined appropriate by the Secretary, section 673(d), of the Act will subsequently maintain employment—

(i) In which the individual provides special education and related services to children with disabilities or early intervention services to infants and toddlers, and their families;

(ii) On a full-time basis; and

(iii) For a period of at least two years for every year for which assistance was received, within a period, beginning after the recipient completes the training for which the scholarship assistance was provided, of not more than the sum of the number of years required in this paragraph and three additional years.

(2) In order to meet the requirements of paragraph (b)(1) of this section, an individual must be employed in a position in which a majority of the persons to whom the individual provides services are receiving from the individual special education and related services as defined in Part B of the Act or early intervention services as defined in Part C of the Act.

(3) Individuals who receive scholarship assistance from a leadership preparation project funded under section 673(c) of the Act will subsequently maintain employment—

(i) In which the individual expends a majority of his or her time performing work related to the individual's preparation;

(ii) On a full-time basis; and

(iii) For a period of at least two years for every year for which assistance was received, within a period, beginning after the recipient completes the training for which the scholarship assistance was awarded, of not more than the sum of the number of years required in this paragraph and three additional years.

(4) The service obligation in this subsection as applied to a part-time scholar will be based on the accumulated academic years of training for which the scholarship is received.

(c) *Repayment.* (1) Subject to the provisions in § 304.31 regarding a deferral or exception, a scholar who does not fulfill the requirements in paragraph (b)(1) or (b)(3) of this section, as appropriate, shall repay all or part of any scholarship received, plus interest.

(2) The amount of the scholarship that has not been retired through eligible service will constitute a debt owed to the United States that—

(i) Will be repaid by the scholar in accordance with § 304.32; and

(ii) May be collected by the Secretary in accordance with 34 CFR part 30, in the case of the scholar's failure to meet the obligation of § 304.32.

(d) *Standards for satisfactory progress.* The grantee shall establish, notify students of, and apply reasonable standards for measuring whether a scholar is maintaining satisfactory progress in the scholar's course of study;

(e) *Tracking system.* The grantee has established policies and procedures, including a tracking system, to determine compliance of scholars with the terms of the written agreement developed under this section;

(f) *Exit certification.* The grantee has established policies and procedures for receiving written certification from scholars at the time of exit from the program that identifies—

(1) The number of years the scholar needs to work to satisfy the work requirements in paragraph (b) of this section.

(2) The total amount of scholarship assistance received subject to the work-or-repay provision in paragraph (b) of this section.

(3) The time period, consistent with paragraphs (b)(1)(iii) or (b)(3)(iii) of this section, during which the scholar must satisfy the work requirements in paragraph (b) of this section.

(4) All other obligations of the scholar under this section.

(g) *Information.* The grantee shall provide, upon request of the Secretary, information, including records maintained under paragraphs (e) and (f) of this section, that is necessary to carry out the Secretary's functions under this part.

(h) *Records.* The grantee shall maintain the information under this section related to a scholar for a period of time equal to the time required to fulfill the obligation under paragraph (b) of this section.

(i) *Notification.* The grantee shall inform the Secretary if a scholar fails to fulfill or chooses not to fulfill the obligation under paragraph (b)(1) or (b)(3) of this section.

(Authority: 20 U.S.C. 1473(h))

### Subpart C—What Conditions Must be met by the Scholar?

#### § 304.30 What are the requirements for scholars?

A scholar shall—

(a) Be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services in order to be eligible to receive a scholarship under the program;

(b) Enter into a written agreement with the grantee that meets the terms and conditions of § 304.23 of this part before starting training;

(c) Receive the training at the educational institution or agency designated in the scholarship;

(d) Not accept payment of educational allowances from any other entity if that allowance conflicts with the scholar's obligation under this part; and

(e) Maintain satisfactory progress toward the degree, certificate, endorsement, or license as determined by the grantee.

(f) Provide information necessary for the grantee to track the scholar's progress in meeting the service obligation under § 304.23(b).

(Authority: 20 U.S.C. 1473(h))

#### § 304.31 What are the requirements for obtaining a deferral or exception to performance or repayment under an agreement?

(a) An exception to the repayment requirement in § 304.23(c) may be granted, in whole or part, if the scholar—

(1) Is unable to continue the course of study or perform the service obligation because of a disability that is expected to continue indefinitely; or

(2) Has died.

(b) Deferral of the repayment requirement in § 304.23(c) may be granted during the time the scholar—

(1) Is engaging in a full-time course of study at an institution of higher education;

(2) Is serving, not in excess of three years, on active duty as a member of the armed services of the United States;

(3) Is serving as a volunteer under the Peace Corps Act;

(4) Is serving as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973;

(5) Has a disability which prevents the individual from working, for a period not to exceed three years; or

(6) Is unable to secure employment as required by the agreement by reason of the care provided to a disabled family member for a period not to exceed 12 months.

(c) Deferrals or exceptions to performance or repayment may be provided by grantees based upon sufficient evidence to substantiate the grounds for an exception under paragraph (a) of this section or a deferral under paragraph (b) of this section.

(Authority: 20 U.S.C. 1473(h))

#### § 304.32 What are the consequences of a scholar's failure to meet the terms and conditions of a scholarship agreement?

If a scholar fails to meet the terms and conditions of a scholarship agreement

under § 304.23(b) or to obtain a deferral or an exception as provided in § 304.31, the scholar shall repay all or part of the scholarship assistance to the Secretary as follows:

(a) *Amount.* The amount of the scholarship to be repaid is proportional to the service obligation not completed.

(b) *Interest Rate.* The Secretary charges the scholar interest on the unpaid balance owed in accordance with 31 U.S.C. 3717.

(c) *Interest accrual.* (1) Interest on the unpaid balance accrues from the date the scholar is determined to have entered repayment status under paragraph (e) of this section.

(2) Any accrued interest is capitalized at the time the scholar's repayment schedule is established.

(3) No interest is charged for the period of time during which repayment has been deferred under § 304.31.

(d) *Collection costs.* Under the authority of 31 U.S.C. 3717, the Secretary may impose reasonable collection costs.

(e) *Repayment status.* A scholar enters repayment status on the first day of the first calendar month after the earliest of the following dates, as applicable:

(1) The date the scholar informs the grantee that he or she does not plan to fulfill the service obligation under the agreement.

(2) Any date when the scholar's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required in § 304.23(b).

(3) Any date on which the scholar discontinues enrollment in the course of study under § 304.30(a).

(f) *Amounts and frequency of payment.* The scholar shall make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary.

(Authority: 20 U.S.C. 1473(h))

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