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NIH GRANTS

POLICY GUIDE

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Vol. 2, No. 2, May 29, 1973

RESCISSION OF TRANSFER PROCEDURE,
RESEARCH CAREER DEVELOPMENT AWARD

A N N O U N C E M E N T

As a result of the phaseout of NIH research training programs (see *GUIDE* No. 1, Vol. 2, March 2, 1973), the procedure for change in grantee institution for a research career development awardee is no longer applicable. Page 7 of *GUIDE* No. 22, Vol. 1, dated December 15, 1972, is therefore rescinded.

The GUIDE is published at irregular intervals to provide policy, program, and administrative information to individuals and organizations who need to be kept informed of requirements and changes in grants and contracts programs administered by the National Institutes of Health.

MICROFILM RECORDS OF CHECKS

A N N O U N C E M E N T

The U. S. General Accounting Office by decision No. B116550 dated March 28, 1973, has advised that there is no objection to a "program of microfilming checks [pertaining to contracts with and grants from NIH] when they are approximately one year old and retaining the microfilms rather than the original checks providing that such microfilms are clear and durable and that the retrieval system is such that copies of checks pertaining to Government grants and contracts may readily be located for audit if desired."

GRANT APPEALS PROCEDURE

PROCEDURE NOTICE

1. Part 16 of Title 45 of the Code of Federal Regulations establishes the criteria and procedures for appealing adverse decisions concerning the administration of grant awards made by the Department of Health, Education, and Welfare. The attached regulation, effective for all awards made on or after May 21, 1973, was published in the Federal Register dated April 20, 1973, pp. 9906-9910.

2. Grantees desiring to appeal an adverse decision by the National Institutes of Health may do so by requesting a review in writing. The request for review must be postmarked no later than 30 days after the postmarked date of the adverse decision and be addressed to the Executive Secretary, Grant Appeals Board, 330 Independence Avenue, SW, Washington, DC 20201. The request for review must clearly identify the question(s) in dispute and contain a full statement of the grantee's position with respect to such question(s) and the pertinent facts and reasons in support of the appeal.

RULES AND REGULATIONS

Title 45—Public Welfare
SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 16—DEPARTMENT GRANT APPEALS PROCESS

Charter for Departmental Grants Appeals Board

Notice of proposed rulemaking was published in the FEDERAL REGISTER on November 18, 1972, at 37 FR 24675, setting forth a charter for a Departmental Grant Appeals Board from which grant appeals panels would be selected for the purpose of reviewing and providing hearings upon postaward disputes which may arise in the administration of certain grant programs by constituent agencies of the Department of Health, Education, and Welfare. Comments were received with respect to the scope of the regulation (§ 16.2), the failure of § 16.3 to define "grantee," composition of the Grant Appeals Board (§ 16.4(a)), composition of the grant appeals panels (§ 16.4(b)), determinations subject to the jurisdiction of the Board (§ 16.5(a)), timeliness of submission of disputes to the Board (§§ 16.5(b), 16.6(a)), action by the Board on applications for review (§ 16.6(b)), procedural rules of the Board (§ 16.8(b)(3)), subsequent proceedings based upon the Board's initial decision (§ 16.10), and the uniqueness of the grant process.

Following review of the comments, the following changes were made:

A. SUMMARY OF CHANGES BASED ON COMMENTS RECEIVED

1. A definition of "Grantee" has been added to § 16.3 which is intended to make clear that in the case of grant awards which designate an institution as the grantee and which also designate a principal investigator, the institution rather than the principal investigator shall be regarded as the grantee for the purposes of the procedures under this part.

2. Sections 16.5(b) and 16.6(a) have been amended to clarify the time for, and manner of, submission for review of a grantee's request for permission to incur an expenditure during the term of a grant when the failure of the constituent agency to approve the grantee's request within a reasonable time is deemed notification of a determination upon the grantee's request.

B. OTHER CHANGES

1. Section 16.3 has been amended to include the Office of the Assistant Secretary for Education, with respect to grants under section 404 of the General Education Provisions Act, and the National Institute of Education as constituent agencies and the Assistant Secretary for Education and the Director of the National Institute of Education as heads of constituent agencies. These agencies and positions were established by the Education Amendments of 1972.

2. Section 16.4(a) has been amended so as to permit greater flexibility in the composition of the Board. As amended, the section does not prescribe a certain

number of Board members, and it makes it clear that service on the Board may be on a regular or an intermittent basis.

3. Section 16.5(a)(1) has been amended to clarify the nature of termination for cause.

4. Section 16.5(a)(3) has been amended to provide that a grantee's request for permission to incur an expenditure must be in writing to provide a basis for jurisdiction in the Board.

5. Section 16.6(b)(2) has been amended to make it clear that the Board Chairman will, before referring an application for review to a panel, determine that requirements related not only to determinations within the jurisdiction of the Board (§ 16.5), but also to timeliness of submission (§ 16.6(a)), have been satisfied.

6. Section 16.8(b)(2)(i) has been amended for the purpose of clarifying that in cases where a formal evidentiary hearing is held under § 16.8(b)(2), a record of the proceedings is not required unless requested by either party to the proceeding.

7. Section 16.10(c) has been amended to clarify the manner in which the head of the constituent agency will signify his determination to review an initial decision of the Board.

8. Other minor changes have been made, either to correct typographical errors or to effect solely technical matters, and appropriate additions and deletions of programs affected have been made in the appendices.

C. SUMMARY OF MAJOR SUBSTANTIVE COMMENTS

1. Comments on the notice of proposed rulemaking were universally favorable to the establishment of the Departmental Grant Appeals Board. Virtually every comment expressed support for the proposed Board as a positive step towards affording grantees a greater measure of due process in the resolution of postaward disputes between grantees and constituent agencies of the Department.

2. One comment emphasized the need for caution in order to preserve the uniqueness of the grant process, as distinguished from the procurement process. This is a comment well-taken. While this part is designed to introduce to the grants area the opportunity for submission of disputes to an impartial forum—an opportunity which has been available with respect to procurement actions of the Department—it does not purport to alter the nature of grants or the grant award process; nor does it deal with those characteristics of grants-in-aid which distinguish them from procurement actions.

3. A comment was received urging that the scope section (§ 16.2) be amended so as to preclude the Grant Appeals Board from considering disputes arising under the various public assistance State plan sections of the Social Security Act, which disputes are now governed by other HEW regulations. However, § 16.2, as presently drafted, would preclude the Board from considering such disputes. Programs (such as State plan formula

programs) other than those authorizing the making of direct, discretionary project grants are not subject to this part unless they are specifically so designated by the head of the constituent agency with the approval of the Secretary (§ 16.2(a)). Programs to which this part is applicable are listed in the appendices, and the programs described by the comment are not so listed. Moreover, § 16.2(b) provides that this part is not applicable if the grantee is entitled to a hearing pursuant to 5 U.S.C. section 554 or if the agency has established procedures approved by the Secretary as an alternative to the procedures under this part.

4. One comment received proposed that "grantee" be defined so as to avoid confusion on the question of whether or not principal investigators employed by institutional grantees may submit applications for review to the Board without authorization by the institution. An appropriate amendment has been made in § 16.3.

5. One comment suggested that § 16.4(a) be amended to require representation on the Board of the grantee community. However, the Grant Appeals Board is a quasi-judicial body. As such, it should not, we think, be organized or staffed on a representative basis. For proper discharge of the adjudicatory function, each Board member should neither regard himself, nor be regarded by others, as representing a particular constituency. Individuals from the grantee community are not excluded from membership on the Board, but, for the above reasons, we think it inappropriate to require their membership.

6. With respect to the composition of the grant appeals panels (§ 16.4(b)), one comment proposed an amendment to proscribe participation on a panel of members from constituent agencies involved in a case before the panel, while another comment suggested an amendment to provide that membership on the panels be related to the specific area under appeal, or at least be multidisciplinary. However, it is felt that issues regarding panel membership should be treated in procedures to be adopted by the Board pursuant to § 16.8(b)(3) rather than in this overall regulation for the Board.

7. One comment proposed that § 16.5(a)(3) be narrowed as a basis for jurisdiction, so that the Board would review disapproval of a grantee's request for permission to incur an expenditure during the term of a grant only when such expenditure "is ordinarily permissible." As we understand it, the purpose of this amendment would be to limit the Board's caseload and thereby expedite its functions. However, it would seem that the suggested basis for excluding disputes—whether the expenditures are ordinarily permissible—goes to the ultimate issue in this class of cases. It is not clear how the Board Chairman is to determine which expenditures are ordinarily permissible and which are not. If appeals are made by grantees with respect to expenditures which are clearly not permissible, we think the existing

procedures permit expeditious disposition of such appeals by the Board on an informal basis.

8. Several comments emphasized the importance of the last sentence of § 16.5(b), which provides that the failure of a constituent agency to approve a grantee's request to incur an expenditure during the term of a grant within a reasonable time shall be deemed by the Board a notification for purposes of invoking the jurisdiction of the Board. However, most of these comments expressed concern over the imprecision of the concept of "reasonable time." One comment pointed out that this would give grantees inadequate guidance as to when it would be appropriate to appeal. Another questioned whether grantees in this situation would be prejudiced under § 16.6(a) for not making a timely filing of an application for review. An attempt has been made to meet these objections through amendments to §§ 16.5(b) and 16.6(a).

9. A comment was received proposing that the Grant Appeals Board be required to act within specified time limits on applications for review, or alternatively, that agency action on determinations should be stayed by the timely filing of the application. Section 16.6(b), which requires the Board Chairman promptly to refer cases to a panel, was viewed as too vague by the comment. Also, the comment regarded § 16.7, which prescribes agency action pending disposition of the application, as recognizing exceptions which would prove too broad, related to the suspension of assistance or the withholding or deferring of payments under the grant. These comments are well taken. They raise considerations which we hope will help to shape the Board's activity. However, we deem it ill-advised to regulate further on these matters in the instant context for the following reasons:

(a) In the absence of any feel for the prospective size and complexity of the Board's caseload, it would be inappropriate to regulate specific time limits on the Board for disposition of cases. Indeed, it is difficult to visualize how any sensible, across-the-board time limits of this sort might be devised. The Board must obviously take whatever time is needed to dispose of cases on a rational and fair basis, and this will inevitably vary from case to case.

(b) Contrariwise, suspension of grant assistance and withholding of payments, to the extent that they are available to an agency, are remedies which by their nature cannot be stayed by the institution of an appeal. If they were stayed, they would render termination a hollow remedy. In the course of resorting to these remedies, agencies independently would, as a matter of good administrative practice, afford grantees some sort of proceedings, but these proceedings should be covered in administrative or program regulations of the agencies concerned.

10. One comment proposed that provision be made for appeals to the Secretary

on decisions which are adverse to the grantee. However, it is felt that such an amendment would not add any significant protection for grantees and would be administratively undesirable. The Grant Appeals Board established by this part is the Secretary's Board. All Board members are appointed by the Secretary for such terms as he may designate (§ 16.4(a)). The Board renders an initial decision which is sent to all parties involved in the dispute. (Section 16.10 (a) and (b)). While such decision may be modified or reserved by the head of the constituent agency, he must accompany such action by a written statement of the grounds for such modification or reversal which shall be filed with the Secretary and the Board (§ 16.10(d)). Section 16.10(d) provides: "In order to afford the Secretary an opportunity to study such decision of the agency head, it shall be served upon the parties no earlier than 30 days after such filing. Such decision shall not become final until it is served upon the grantee involved or his attorney." These provisions are designed to insure that the decision of the Board will be overturned by the head of the constituent agency, who is prohibited from delegating his review function by § 16.10 (e), only for substantial reasons articulated on the record. They follow the decision and review pattern for administrative adjudication set forth in the Administrative Procedure Act. In the face of these safeguards, a provision for review by the Secretary would create an additional administrative layer for review, without any corresponding benefit to grantees.

After consideration of the above comments, title 45 of the Code of Federal Regulations is amended by adding a new part 16 as set forth below.

Effective date.—This regulation shall be effective May 21, 1973.

Dated April 16, 1973.

CASPER W. WEINBERGER,
Secretary, Department of
Health, Education, and Wel-
fare.

Sec.	
16.1	Purpose.
16.2	Scope.
16.3	Definitions.
16.4	Grant appeals board; grant appeals panel.
16.5	Determinations subject to the jurisdiction of the board.
16.6	Submission.
16.7	Effect of submission.
16.8	Substantive and procedural rules.
16.9	Hearing before panel or a hearing officer.
16.10	Initial decision; final decision.
16.11	Separation of functions.
	*Appendix A—Education Programs.
	Appendix B—Social and Rehabilitation Service and Child Development Programs.
	Appendix C—Public Health Programs.
	Appendix D—Food and Drug Programs.

Authority: Secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and the individual authorities cited in the Appendices.

§ 16.1 Purpose.

This part establishes a Departmental Grant Appeals Board, for the purpose of reviewing and providing hearings upon post-award disputes which may arise in the administration of or carrying out of grants under grant programs (as described in § 16.2) and which are submitted to the Board as provided in § 16.6. (Authority cited in the Appendices.)

§ 16.2 Scope.

(a) This part applies to certain determinations (as set forth in § 16.5), made after the effective date of this part, with respect to grants awarded by a constituent agency of the Department of Health, Education, and Welfare pursuant to: (1) Any program which authorizes the making of direct, discretionary project grants or (2) any other program (including any State plan, formula program) which the head of the constituent agency, with the approval of the Secretary, may designate in whole or in part.

(b) Notwithstanding paragraph (a) of this section, this part shall not be applicable to a determination: (1) If the grantee is entitled to an opportunity for hearing with respect to such determination pursuant to 5 U.S.C. sec. 554 or (2) if, in order to meet special needs applicable to a particular program, the constituent agency has established an appropriate alternative procedure (which is available to the grantee) for the review or resolution of such determination and the Secretary has approved such procedure as an alternative to the procedures under this part.

(c) Programs to which this part is applicable shall be listed in the Appendices to this part. With the approval of the Secretary, a program not so listed may be made subject to this part through an appropriate designation by the head of the constituent agency concerned. The Appendices referred to in the preceding sentence shall be promptly updated to reflect such designations.

(d) This part does not apply to any action taken pursuant to title VI of the Civil Rights Act of 1964, Part 80 of this title, and Executive Order No. 11246.

(Authority cited in the Appendices.)

§ 16.3 Definitions.

For purposes of this part:

(a) "Board" means the Departmental Grant Appeals Board, as described in paragraph (a) of § 16.4.

(b) "Board Chairman" means the Board member designated by the Secretary to serve as Chairman of the Board.

(c) "Panel" means a Grant Appeals Panel, as described in paragraph (b) of § 16.4.

(d) "Panel Chairman" means a member of a Grant Appeals Panel who has been designated as Chairman of such Panel by the Board Chairman.

(e) "Constituent agency" means the Office of the Assistant Secretary for Education (with respect to grants pursuant to section 404 of the General Education Provisions Act), the Office of Education, the National Institute of Education, the

Health Services and Mental Health Administration, the Social and Rehabilitation Service, the Office of Child Development, the National Institutes of Health, the Food and Drug Administration, the Office of Grant Administration Policy, or any other organizational component of the Department which the Secretary may designate.

(f) "Head of the constituent agency" means, as appropriate, the Assistant Secretary for Education (with respect to grants pursuant to section 404 of the General Education Provisions Act), the Commissioner of Education, the Director of the National Institute of Education, the Administrator, Health Services and Mental Health Administration, the Administrator of the Social and Rehabilitation Service, the Director of the Office of Child Development, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Deputy Assistant Secretary for Grant Administration Policy, or the head of any other organizational component designated by the Secretary pursuant to paragraph (e) of this section.

(g) The terms "Department" and "Departmental" refer to the U.S. Department of Health, Education, and Welfare.

(h) "Secretary" means the U.S. Secretary of Health, Education, and Welfare.

(i) "Termination" of a grant means the termination of the grantee's authority to charge allowable costs to a grant prior to the grant expiration date in the grant award document.

(j) "Grantee" means the agency, institution, organization, or individual named as grantee in the grant award document.

(Authority cited in the Appendices.)

§ 16.4 Grant Appeals Board; Grant Appeals Panel.

(a) There is established, within the Office of the Secretary, a Departmental Grant Appeals Board the members of which shall be appointed by the Secretary, for such terms as may be designated by him, to perform the functions described in this part. Subject to the limitations set forth in § 16.11, persons who are officers or employees of the Department or of any of its constituent agencies as well as other Federal officers or employees may serve on the Board. Persons who are not otherwise full-time employees of the Federal Government may, in accordance with appropriate arrangements, also be asked to serve on the Board. Service on the Board may be on a regular or an intermittent basis.

(b) The Secretary shall designate one of the members of the Board to be Chairman. The Board Chairman shall designate Grant Appeals Panels for the consideration of one or more cases submitted to the Board. Each such Panel shall consist of not less than three members of the Board. The Board Chairman may, at his discretion, constitute the entire Board to sit for any case or class of cases. The Board Chairman shall des-

ignate himself or any other member of a Panel to serve as Chairman.

(Authority cited in the Appendices.)

§ 16.5 Determinations subject to the jurisdiction of the Board.

(a) Subject to § 16.2 and paragraph (b) of this section, the Board shall have jurisdiction over the following determinations of a cognizant officer or employee of a constituent agency adverse to a grantee:

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) The disapproval of a grantee's written request for permission to incur an expenditure during the term of a grant.

(4) A determination that a grant is void.

(5) Establishment of indirect cost or research patient hospital care rates (except where the grantee has appealed to the Armed Services Board of Contract Appeals with respect to such determination under a contract with the Department).

(b) A determination described in paragraph (a) of this section may not be reviewed by the Board unless: (1) An officer or employee of the constituent agency has notified the grantee in writing of such determination and (2) such informal procedures as the agency has established by regulation for the resolution (prior to submission to the Board) of issues related to such determination have been exhausted. A notification described in subparagraph (1) of this paragraph shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall inform the grantee of his opportunity for review under this part. In the case of a determination under paragraph (a) (3) of this section, the failure of a constituent agency to approve a grantee's request within a reasonable time, which shall be no longer than 30 days after the postmark date of the grantee's request unless the constituent agency demonstrates to the Board Chairman good cause for not acting upon the request within such time period and has so notified the grantee within 30 days after the postmark date of the grantee's request, shall be deemed by the Board a notification for purposes of this paragraph.

(Authority cited in the Appendices.)

§ 16.6 Submission.

(a) *Application for review.* (1) A grantee with respect to whom a determination described in § 16.5 has been

made and who desires review may file with the Board an application for review of such determination. The grantee's application for review must be postmarked no later than 30 days after the postmark date of notification provided pursuant to § 16.5(b)(1) except when (i) the head of the constituent agency, by regulation, establishes a different period of time for any class of cases; (ii) the Board Chairman grants an extension of time for good cause shown; or (iii) the determination is one described in the last sentence of § 16.5(b), in which case subject to subdivisions (i) and (ii) of this subparagraph, the grantee's application for review must be postmarked no later than 90 days after the postmark date of the grantee's request for permission to incur an expenditure.

(2) Although the application for review need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position with respect to such question or questions, and the pertinent facts and reasons in support of such position. Except in the case of a determination described in the last sentence of § 16.5(b), the grantee shall attach to his submission a copy of the agency notification described in § 16.5(b)(1).

(b) *Action by Board on application for review.* (1) The Board Chairman shall promptly send a copy of the grantee's application to the appropriate constituent agency.

(2) If the Board Chairman determines, after receipt of an application for review, that the requirements of § 16.5 and paragraph 6(a) of this section have been satisfied, he shall promptly refer the application to a Grant Appeals Panel designated pursuant to § 16.4(b) for further proceedings under this part. If he determines that such requirements have not been met, the Board Chairman shall advise the grantee of the reasons for the rejection of the application.

(Authority cited in the Appendices.)

§ 16.7 Effect of submission.

When an application has been filed with the Board with respect to a determination, no action may be taken by the constituent agency pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend assistance under a grant during proceedings under this part or otherwise to withhold or defer payments under the grant.

(Authority cited in the Appendices.)

§ 16.8 Substantive and procedural rules.

(a) *Substantive rules.* The Panel shall be bound by all applicable laws and regulations.

(b) *Procedural rules.* (1) With respect to cases involving, in the opinion of the Panel, no dispute as to a material fact

the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party to the proceeding an opportunity for presenting his case at the option of the Panel (i) in whole or in part in writing or (ii) in an informal conference before the Panel which shall afford each party: (a) Sufficient notice of the issues to be considered (where such notice has not previously been afforded); and (b) an opportunity to be represented by counsel.

(2) With respect to cases involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall afford each party an opportunity for a hearing, which shall include, in addition to provisions required by subparagraph (1) (ii) of this paragraph provisions designed to assure to each party the following:

(i) An opportunity for a record of the proceedings;

(ii) An opportunity to present witnesses on his behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(3) After consultation with the constituent agencies, the Board shall, with the approval of the Secretary, promulgate and publish rules of procedure, including rules respecting opportunity for intervention by interested third parties, relating to proceedings under this part.

(Authority cited in the Appendices.)

§ 16.9 Hearing before Panel or a Hearing Officer.

A hearing pursuant to § 16.8(b) (2) shall be conducted, as determined by the Panel Chairman, either before the Panel or a hearing officer. The hearing officer may be (a) one of the members of the Panel or (b) a nonmember who is appointed as a hearing examiner under 5 U.S.C. 3105.

(Authority cited in the Appendices.)

§ 16.10 Initial decision; final decision.

(a) The Panel shall prepare an initial written decision, which shall include findings of fact and conclusions based thereon. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions which shall be incorporated in the initial decision prepared by the Panel.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party, or his counsel and to the Secretary with a notice affording such party an opportunity to submit written comments thereon to the head of the appropriate constituent agency within a specified reasonable time.

(c) The initial decision of the Panel shall be transmitted to the head of the constituent agency and shall become the final decision of the constituent agency, unless, within 25 days after the expiration of the time for receipt of written comments, the head of the appropriate constituent agency advises the Board Chair-

man in writing of his determination to review such decision.

(d) In any case in which the head of the constituent agency modifies or reverses the initial decision of the Panel, he shall accompany such action by written statement of the grounds for such modification or reversal, which shall promptly be filed with the Secretary and the Board. In order to afford the Secretary an opportunity to study such decision of the agency head, it shall be served upon the parties no earlier than 30 days after such filing. Such decision shall not become final until it is served upon the grantee involved or his attorney.

(e) The authority to review initial decisions shall not be delegated. Review of any initial decision by the head of the constituent agency shall be based upon such decision, the written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties, or by their counsel, to the proceeding.

(Authority cited in the Appendices.)

§ 16.11 Separation of functions.

No person who participated in prior administrative consideration, or in the preparation or presentation of, a case submitted to the Board shall advise or consult with, and no person having an interest in such case shall make or cause to be made an ex parte communication to, the Panel, Board, or head of the constituent agency with respect to such case, unless all parties to the case are given timely and adequate notice of such advice, consultation, or communication, and reasonable opportunity to respond is given all parties.

(Authority cited in the Appendices.)

APPENDICES

This part is issued under sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and is applicable to programs carried out under the following authorities:

APPENDIX A—EDUCATION PROGRAMS

(1) Section 306 of the Elementary and Secondary Education Act (20 U.S.C. 844b);

(2) Section 505 of title V of the Elementary and Secondary Education Act (except as to matters governed by part E of such title) (20 U.S.C. 868, 867, 869, 869a);

(3) Title VII of the Elementary and Secondary Education Act (20 U.S.C. 880b);

(4) Title VIII of the Elementary and Secondary Education Act (20 U.S.C. 887, 887a, 887b);

(5) Parts C, D, E, F, and G of the Education of the Handicapped Act (20 U.S.C. 1421, 1431, 1441, 1451, and 1461);

(6) Section 309 of the Adult Education Act (20 U.S.C. 1208);

(7) Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c-9);

(8) The Cooperative Research Act (20 U.S.C. 331a-332b);

(9) Sections 131(a), 142(c), and 191 of the Vocational Education Act (20 U.S.C. 1281(a), 1302(d); 1391);

(10) Parts A and B of title II of the Higher Education Act (20 U.S.C. 1021, 1031);

(11) Title III of the Higher Education Act (20 U.S.C. 1051);

(12) Section 408 of the Higher Education Act of 1965 (20 U.S.C. 1068);

(13) Title IV-D of the Higher Education Act (20 U.S.C. 1087);

(14) Section 504 and parts B-1, C, D, E, and F of the Education Professions Development Act (20 U.S.C. 1101, 1111, 1119, 1119b, 1119c);

(15) Title VI of the National Defense Education Act (20 U.S.C. 511);

(16) The Environmental Education Act (20 U.S.C. 1531);

(17) The Drug Abuse Education Act (21 U.S.C. 1001);

(18) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390);

(19) Section 411 of the General Education Provisions Act (20 U.S.C. 1222);

(20) International Education Act of 1966;

(21) Direct project grants under sections 231(a), 241, 251, 309 of the Manpower Development and Training Act (42 U.S.C. 2601(a), 2610a, 2610b, 2619);

(22) Section 404 of the General Education Provisions Act (20 U.S.C. 1221d);

(23) Direct grants under section 405 of the General Education Provisions Act (20 U.S.C. 1221e);

(24) Emergency School Aid Act, except for determinations described under § 16.5(a) (1) and (4) (20 U.S.C. 1601 et seq.).

(25) The follow through program under section 222(a) (2) of the Economic Opportunity Act of 1964, except for determinations described under § 16.5(a) (1) and (4) (42 U.S.C. 2809(a) (2)).

APPENDIX B—SOCIAL AND REHABILITATION SERVICES AND CHILD DEVELOPMENT PROGRAMS

(1) The Headstart program under section 222(a) (1) of the Economic Opportunity Act except for determinations described under § 16.5(a) (1) and (4) (42 U.S.C. 2809(a) (2)).

(2) Section 222 (a) and (b) of the Social Security Amendments of 1972 (Public Law 92-603).

(3) Section 426 of the Social Security Act (42 U.S.C. 626).

(4) Sections 102, 201, 301, and 302 of the Juvenile Delinquency Prevention Act (42 U.S.C. 3812, 3861, 3871, 3872).

(5) Sections 4(a), 12, 13(a), 13(b), and 17 of the Vocational Rehabilitation Act. (29 U.S.C. 34, 41a, 41b(a), 41b(b), and 42b).

(6) Sections 121, 122, 141 of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 2661, 2661a, 2678).

(7) Section 1110 of the Social Security Act (42 U.S.C. 1310).

(8) Section 1115 of the Social Security Act (42 U.S.C. 1315).

(9) Sections 305, 401, and 501 of the Older Americans Act of 1965 (42 U.S.C. 3024a, 3031, 3041).

APPENDIX C—PUBLIC HEALTH PROGRAMS

(1) Section 225 of the Public Health Service Act (42 U.S.C. 234).

(2) Section 301 of the Public Health Service Act (42 U.S.C. 241).

(3) Section 303 of the Public Health Service Act (42 U.S.C. 242a).

(4) Section 304 of the Public Health Service Act (42 U.S.C. 242b).

(5) Section 306 of the Public Health Service Act (42 U.S.C. 242d).

(6) Section 308 of the Public Health Service Act (42 U.S.C. 242f).

(7) Section 309 of the Public Health Service Act (42 U.S.C. 242g).

(8) Section 310 of the Public Health Service Act (42 U.S.C. 242h).

(9) Section 314 (b), (c), and (e) of the Public Health Service Act (42 U.S.C. 246 (b), (c), and (e)).

(10) Section 317 of the Public Health Service Act (42 U.S.C. 247b).

(11) Section 318 of the Public Health Service Act (42 U.S.C. 247c).

(12) Section 393 of the Public Health Service Act (42 U.S.C. 280b-3).
 (13) Section 394 of the Public Health Service Act (42 U.S.C. 280b-4).
 (14) Section 395 of the Public Health Service Act (42 U.S.C. 280b-5, 6).
 (15) Section 396 of the Public Health Service Act (42 U.S.C. 280b-7).
 (16) Section 397 of the Public Health Service Act (42 U.S.C. 280b-8).
 (17) Section 398 of the Public Health Service Act (42 U.S.C. 280b-9).
 (18) Section 402 of the Public Health Service Act (42 U.S.C. 282).
 (19) Section 407 of the Public Health Service Act (42 U.S.C. 286a).
 (20) Section 412 of the Public Health Service Act (42 U.S.C. 287a).
 (21) Section 413 of the Public Health Service Act (42 U.S.C. 287b).
 (22) Section 422 of the Public Health Service Act (42 U.S.C. 288a).
 (23) Section 431 of the Public Health Service Act (42 U.S.C. 289a).
 (24) Section 433 of the Public Health Service Act (42 U.S.C. 289c).
 (25) Section 434 of the Public Health Service Act (42 U.S.C. 289c-1).
 (26) Section 444 of the Public Health Service Act (42 U.S.C. 289g).
 (27) Section 453 of the Public Health Service Act (42 U.S.C. 289k).
 (28) Section 704 of the Public Health Service Act (42 U.S.C. 292c).
 (29) Section 720 of the Public Health Service Act (42 U.S.C. 293).
 (30) Section 767 of the Public Health Service Act (42 U.S.C. 295e-1).
 (31) Section 768 of the Public Health Service Act (42 U.S.C. 295e-2).
 (32) Section 769 of the Public Health Service Act (42 U.S.C. 295e-3).
 (33) Section 769A of the Public Health Service Act (42 U.S.C. 295e-4).
 (34) Section 771 of the Public Health Service Act (42 U.S.C. 295f-1).
 (35) Section 772 of the Public Health Service Act (42 U.S.C. 295f-2).

(36) Section 773 of the Public Health Service Act (42 U.S.C. 295f-3).
 (37) Section 774 of the Public Health Service Act (42 U.S.C. 295f-4).
 (38) Section 784 of the Public Health Service Act (42 U.S.C. 295f-5).
 (39) Section 791 of the Public Health Service Act (42 U.S.C. 295h).
 (40) Section 792 of the Public Health Service Act (42 U.S.C. 295h-1).
 (41) Section 793 of the Public Health Service Act (42 U.S.C. 295h-2).
 (42) Section 794A of the Public Health Service Act (42 U.S.C. 295h-3a).
 (43) Section 794B of the Public Health Service Act (42 U.S.C. 295h-3b).
 (44) Section 794C of the Public Health Service Act (42 U.S.C. 295h-3c).
 (45) Section 802 of the Public Health Service Act (42 U.S.C. 296a).
 (46) Section 805 of the Public Health Service Act (42 U.S.C. 296d).
 (47) Section 810 of the Public Health Service Act (42 U.S.C. 296i).
 (48) Section 821 of the Public Health Service Act (42 U.S.C. 297).
 (49) Section 868 of the Public Health Service Act (42 U.S.C. 298c-7).
 (50) Section 903 of the Public Health Service Act (42 U.S.C. 299c).
 (51) Section 904 of the Public Health Service Act (42 U.S.C. 299d).
 (52) Section 1001 of the Public Health Service Act (42 U.S.C. 300).
 (53) Section 1003 of the Public Health Service Act (42 U.S.C. 300a-1).
 (54) Sections 1004 and 1005 of the Public Health Service Act (42 U.S.C. 300a-2, 300a-3).
 (55) Section 1101 of the Public Health Service Act (42 U.S.C. 300b).
 (56) Section 1102 of the Public Health Service Act (42 U.S.C. 300b-1).
 (57) Section 1111(a)(1) of the Public Health Service Act (42 U.S.C. 300c(a)(1)).
 (58) Section 1111(a)(2) of the Public Health Service Act (42 U.S.C. 300c(a)(2)).
 (59) Section 220 of the Community Mental Health Centers Act (42 U.S.C. 2688).

(60) Section 241 of the Community Mental Health Centers Act (42 U.S.C. 2688f).
 (61) Section 242 of the Community Mental Health Centers Act (42 U.S.C. 2688g).
 (62) Section 243 of the Community Mental Health Centers Act (42 U.S.C. 2688h).
 (63) Section 246 of the Community Mental Health Centers Act (42 U.S.C. 2686j-1).
 (64) Section 247 of the Community Mental Health Centers Act (2688j-2).
 (65) Section 251 of the Community Mental Health Centers Act (42 U.S.C. 2688(k)).
 (66) Section 252 of the Community Mental Health Centers Act (42 U.S.C. 2688l).
 (67) Section 253 of the Community Mental Health Centers Act (42 U.S.C. 2688i-1).
 (68) Section 256 of the Community Mental Health Centers Act (42 U.S.C. 2688n-1).
 (69) Section 264 of the Community Mental Health Centers Act (42 U.S.C. 2688r).
 (70) Section 271 of the Community Mental Health Centers Act (42 U.S.C. 2688u).
 (71) Section 272 of the Community Mental Health Centers Act (42 U.S.C. 2688v).
 (72) Section 410 of Public Law 92-255—The Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1177).
 (73) Section 501 of the Coal Mine Health and Safety Act (30 U.S.C. 951).
 (74) Section 20 of the Occupational Health and Safety Act (29 U.S.C. 669).
 (75) Section 21 of the Occupational Health and Safety Act (29 U.S.C. 670).

APPENDIX D—FOOD AND DRUG PROGRAMS

(1) Food and drug research—project grants, section 301 of the Public Health Service Act (42 U.S.C. 241).
 (2) Food and drug research—product safety research, section 301(d) of the Public Health Service Act (42 U.S.C. 241).
 (3) Food and drug research—pesticides research, section 301(d) of the Public Health Service Act (42 U.S.C. 241).

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