

[COMMITTEE PRINT]

A COMPILATION OF FEDERAL
EDUCATION LAWS
VOLUME III—HIGHER EDUCATION
As Amended Through December 31, 1992

PREPARED FOR THE USE OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
FIRST SESSION



JANUARY 1993

Serial No. 103-A

Printed for the use of the House Committee on Education and Labor
WILLIAM D. FORD, *Chairman*

(e) FIVE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

(1) \$150,000 for each project under the high school equivalency program, and

(2) \$150,000 for each project under the college assistance migrant program.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d-2) Enacted October 3, 1980, P.L. 96-374, sec. 406, 94 Stat. 1411; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1341; amended June 3, 1987, P.L. 100-50, sec. 7, 101 Stat. 340; amended July 23, 1992, P.L. 102-325, sec. 405, 106 Stat. 507.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

STATEMENT OF PURPOSE

SEC. 419A. It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(20 U.S.C. 1070d-31) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(a), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1343.

[Section 419B was repealed by P.L. 102-325, sec. 406(a), 106 Stat. 508.]

SCHOLARSHIPS AUTHORIZED

SEC. 419C. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) **BYRD SCHOLARS.**—Individuals awarded scholarships under this subpart shall be known as “Byrd Scholars”.

(20 U.S.C. 1070d-33) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(b), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(b), 106 Stat. 508.

ALLOCATION AMONG STATES

SEC. 419D. (a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to \$1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) **NUMBER OF SCHOLARSHIPS AVAILABLE.**—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) **USE OF CENSUS DATA.**—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(20 U.S.C. 1070d-34) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(c), 106 Stat. 509.

AGREEMENTS

SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart \$1,500.

(20 U.S.C. 1070d-35) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(c), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(g)(2), 106 Stat. 509.

ELIGIBILITY OF SCHOLARS

SEC. 419F. (a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(20 U.S.C. 1070d-36) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

SELECTION OF SCHOLARS

SEC. 419G. (a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(20 U.S.C. 1070d-37) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(d), 106 Stat. 509.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 419H. (a) AMOUNT OF AWARD.—Each student awarded a scholarship under this subpart shall receive a stipend of \$1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(20 U.S.C. 1070d-38) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(e), 106 Stat. 509.

CONSTRUCTION OF NEEDS PROVISIONS

SEC. 419J.¹ Except as provided in section 471, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

(20 U.S.C. 1070d-40) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(f), 106 Stat. 509.

AUTHORIZATION OF APPROPRIATIONS

SEC. 419K. There are authorized to be appropriated for this subpart \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d-41) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1346; amended July 23, 1992, P.L. 102-325, sec. 406(h), 106 Stat. 509.

SUBPART 7²—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SEC. 420B. (a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

- (1) a description of the program to be established;
- (2) assurances by the applicant to the Secretary that—
 - (A) not less than two-thirds of the participants in the program are low-income individuals;
 - (B) the participants require the services to pursue successfully a program of education beyond high school;
 - (C) the participants are enrolled at the institution which is the recipient of the grant;
 - (D) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and
 - (E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and
- (3) such information (and meet such conditions) as may be required by the Secretary.

¹Section 419I was repealed by P.L. 102-325, sec. 406(g)(1), 106 Stat. 509.

²Section 420 was repealed by P.L. 102-325, sec. 407, 106 Stat. 510; and section 420A was repealed by P.L. 102-325, sec. 408, 106 Stat. 510.

ROBERT C. BYRD SCHOLARSHIP PROGRAM
Higher Education amendments of 1992
(Public Law 102-325)

SEC. 409. BYRD HONORS SCHOLARSHIP PROGRAM.

(a) **DEFINITIONS.**—Section 419B of the Act (20 U.S.C. 1070d-32) is repealed.

(b) **PERIOD OF AWARD.**—Section 419C(b) of the Act (20 U.S.C. 1070d-33(b)) is amended to read as follows:

“(b) **PERIOD OF AWARD.**—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.”.

(c) **ALLOCATION AMONG STATES.**—Section 419D of the Act (20 U.S.C. 1070d-34) is amended to read as follows:

“ALLOCATION AMONG STATES

“**SEC. 419D. (a) ALLOCATION FORMULA.**—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to \$1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

“(b) **NUMBER OF SCHOLARSHIPS AVAILABLE.**—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

“(c) **USE OF CENSUS DATA.**—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.”.

(d) **SELECTION OF SCHOLARS.**—Section 419G of the Act (20 U.S.C. 1070d-37) is amended—

(1) by amending subsection (b) to read as follows:

“(b) **ADOPTION OF PROCEDURES.**—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).”; and

(2) by adding at the end the following new subsection:

“(d) **TIMING OF SELECTION.**—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.”.

(e) **STIPENDS AND SCHOLARSHIP CONDITIONS.**—Section 419H(a) of the Act (20 U.S.C. 1070d-38(a)) is amended by inserting before the period the following: “, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance”.

(f) **CONSTRUCTION OF NEEDS PROVISIONS.**—Section 419J of the Act (20 U.S.C. 1070d-40) is amended by striking “Nothing” and inserting “Except as provided in section 471, nothing”.

1993 Amendments

ENCLOSURE F

college and the federal program allowance for a family of six with one in college".

(27) in section 415C(b)(7), by striking the period at the end and inserting a semicolon.

(28) in section 416C(b)-

(A) by writing "for a period of not more than 4 years for the first 4 years of study" and inserting "for a period of not less than 1 or more than 4 years during the first 4 years of study"; and

(B) by adding at the end the following:

"The State educational agency administering the program in a State shall have discretion to determine the period of the word (within the limits specified in the preceding sentence), except that--

"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess.

"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years." and

(29) in section 419D by adding at the end the following new subsection

"(d) Consolidation by Insular Area Prohibited.—Notwithstanding section 501 of Public Law 95-134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government." and

(30) in section 419G(b), by striking "the District of Columbia, the Commonwealth of Puerto Rico," and inserting "the Federated States of Micronesia, the Republic of the Marshall Island,".

(c) Amendments to Part B of Title IV of the Act.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended--

(1) in section 422(e)(7), by striking the semicolon at the end of subparagraph (B) and inserting a period;

(2) in section 423(a)(1)(A)--

(A) by striking clauses (B) and (C) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed each first year but has not successfully

amendments
to the
grad Program.



**Education Department
General Administrative
Regulations**

**34 CFR Parts 74, 75, 76, 77,
79, 80, 81, 82, 85 and 86**

Revised July 1, 1991

Balance frequency and due date. Grantee must submit the report no later than 15 working days following the end of each quarter. However, where the grantee elects to transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal Government may require the report to be submitted within 15 working days following the end of each month.

Request for advance or reimbursement—(1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270. Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or Treasury check advance payment.) A made to the grantee automatically on a predetermined basis.)

Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement under construction grants, see paragraph (e)(1) of this section.) The frequency for submitting reimbursement requests is treated in paragraph (b)(3).

Outlay report and request for reimbursement for construction projects. (1) Grants that support construction activities paid by reimbursement method. Requests for reimbursement under construction grants will be submitted on Standard Form 271. Report and Request for Reimbursement for Construction Programs. Agencies may, however, present requests for Advance or Reimbursement form, specified in paragraph (d), instead of this form. The frequency for submitting reimbursement requests is treated in paragraph (b)(3).

Grants that support construction activities paid by letter of credit, electronic transfer or Treasury advance. (1) When a construction advance is paid by letter of credit, the grantee will transfer or Treasury advance, the grantee will its outlays to the Federal Report and Request for Reim-

The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by § 80.41(b)(3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in § 80.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in § 80.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 80.41(b)(2).

(Approved by the Office of Management and Budget under control number 1880-0517)

(Authority: 20 U.S.C. 3474; OMB Circular A-102)

(53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 49143, Dec. 6, 1988)

§ 80.42 Retention and access requirements for records.

(a) Applicability. (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

- (i) Required to be maintained by the terms of this part, program regulations or the grant agreement; or
- (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

tion of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(4) A recipient that receives funds under a program subject to 20 U.S.C. 1232f (section 437 of the General Education Provisions Act) shall retain records for a minimum of five years after the starting date specified in paragraph (c) of this section.

(c) Starting date of retention period—(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the

grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records—(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(1) Restrictions on public access. The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

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A COMPILATION OF FEDERAL
EDUCATION LAWS
VOLUME I—GENERAL PROVISIONS
As Amended Through December 31, 1984

PREPARED FOR THE USE OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

88 Amendments
Appeal Procedures do not apply

DECEMBER 1984

Printed for the use of the House Committee on Education and Labor

State agency or board shall submit a general application containing the assurance. (b) That application shall cover the State agency in all such programs. submitted by a local educational agency shall set forth assurances—

Each local educational agency will administer each application in accordance with all plans, program plans, and applications; funds provided to the local educational agency and title to property acquired with a public agency and that a public agency will use fiscal control procedures that will ensure proper disbursement for, Federal funds paid to that

Each local educational agency will make reports to the Commissioner as may reasonably be required by the State agency or board and the local educational agency shall perform their duties and that the local educational agency shall maintain such records, including the records of expenditures, and provide access to those records, and the Commissioner deem necessary.

Each local educational agency will provide reasonable participation by teachers, parents, and the community, organizations, and individuals in the development of each program;

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Each local educational agency will provide reasonable participation by teachers, parents, and the community, organizations, and individuals in the development of each program;

Each local educational agency has adopted effective procedures for disseminating to teachers and administrators each program significant information, such as research, demonstrations, and similar activities, which are appropriate, promising educational projects; and

Each local educational agency will provide reasonable participation by teachers, parents, and the community, organizations, and individuals in the development of each program;

(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(20 U.S.C. 1232e) Enacted Apr. 13, 1970, P.L. 91-230, sec. 401(a)(10), 84 Stat. 170; redesignated June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326; amended Nov. 1, 1978, P.L. 95-561, sec. 1231(a)(3), 92 Stat. 2345, 2346; amended Oct. 17, 1979, P.L. 96-88, sec. 301, 93 Stat. 677; amended Oct. 19, 1984, P.L. 98-511, sec. 706(b), 98 Stat. 2407.

Subpart 4—Records; Privacy; Limitation on Withholding Federal Funds

RECORDS

SEC. 437. (a) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency) shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activity for which the funds are used.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in subsection (a), or which may relate to the compliance of the recipient with any requirement of an applicable program.

(20 U.S.C. 1232f) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1231(c), 92 Stat. 2346 (former sec. 437 redesignated as sec. 406A).

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS¹

SEC. 438. (a)(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the educational records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable

¹ This section may be cited as the "Family Educational Rights and Privacy Act of 1974".

Several commenters recommended that the continuing eligibility criteria be limited to the following three requirements: attendance at an eligible institution, the absence of a default on a Federal student loan, and the maintenance of satisfactory academic progress. One commenter suggested that States have flexibility to award scholarship funds to continuing scholars prior to receipt of certifications from institutions that the scholars meet the continuing eligibility requirements. Several commenters expressed the view that this program is not a loan program and therefore should not include any requirements for the repayment of funds when they are awarded to scholars who fail to meet the continuing eligibility criteria.

Discussion: Continuing eligibility criteria are necessary for this program for the first time because the 1992 Amendments expanded the scholarship period from one to four years. The Secretary believes the continuing eligibility requirements in § 654.51 of the proposed regulations are appropriate, and does not believe there is any basis for limiting the continuing eligibility criteria to the three criteria proposed by some commenters. For example, the Secretary believes the requirements related to citizenship, national, or legal resident status are equally applicable to new and continuing scholars and should be included in the requirements for continuing eligibility.

Moreover, the Secretary believes the regulations strike a fair compromise on the full-time attendance requirement, leaving it up to the SEA to permit part-time attendance after the first year in "unusual circumstances," as defined by the SEA. The Secretary believes that full-time attendance requirement is consistent with the intent of Congress because it will enable most scholars to graduate by the end of the four-year scholarship period.

Requiring the repayment of funds improperly awarded and the pro-ration of funds awarded for less than full-time attendance is simply responsible fiscal management of Federal funds. These provisions do not make this program a loan program. There are no requirements in the regulations for repayment of funds that are properly awarded.

States are responsible for setting up their own procedures to ensure that funds are properly awarded. To the extent that States establish systems that provide scholarship funds prior to receiving certification to document that the scholar meets the continuing eligibility requirements, the States risk

awarding funds improperly. States are responsible for repaying funds that are improperly awarded even if they fail to recover them from the students.

Changes: None.

Study Abroad (§ 654.51(a)(2))

Comment: One commenter asked for clarification of the circumstances under which a student could receive scholarship funds under this program for a period during which they were studying abroad.

Discussion: Section 419H(b) of the HEA provides that the SEA must assure that a scholar under this program pursues a course of study at an "institution of higher education." An "institution of higher education" is defined under section 481 of the statute in terms of an educational institution in a "State." Accordingly, a scholar may not continue to receive funds under this program to pursue a course of study at an institution in a foreign country, with one exception. A scholar who is studying abroad through an institution of higher education that meets the definition in section 481 is considered to be eligible to receive funds under this program as long as the scholar is enrolled at and receiving credit from that institution of higher education.

Changes: None.

Carryover of Unexpended Funds (§ 654.60(b))

Comment: Several commenters requested clarification concerning how unexpended scholarship funds, including returned or collected funds, could be used. One commenter asked what happens to scholarship funds if a scholar who is notified of his or her award turns it down.

Discussion: The Education Department General Administrative Regulations (EDGAR), at 34 CFR 76.705, provide that States may carry over to the following fiscal year any funds that are not obligated by the end of the fiscal year for which Congress appropriated the funds. In addition, § 654.60(b) of the regulations expressly permits States to retain for the following award year any funds that are awarded but are subsequently returned or collected. Those funds may be used only to award scholarships.

In order to address the potential problem of unexpended funds because a student notified of his or her selection turned down the scholarship award, at which time it would likely be too late to select a new scholar for that year, the Secretary suggests that States consider setting up a procedure to select alternate scholars. Alternate scholars should be notified of their selection, along with

other scholars, by the end of the secondary school year. Alternate scholars would be eligible for funds that became available prior to the beginning of their first year of postsecondary study.

Changes: None.

Priority for Continuing Scholars

Comment: Several commenters asked whether continuing scholars should be funded each year prior to new scholars.

Discussion: Funds for continuing scholars who meet the continuing eligibility requirements should be committed first, with the remaining funds used to award new scholarships. The Secretary believes that this is consistent with the intent of Congress to provide scholarships to students who show promise of continued academic achievement.

Changes: None.

Paperwork Burden (§§ 654.10, 654.11, 654.41, and 654.60)

Comment: One commenter expressed the view that the paperwork burden on States will exceed the estimated average of two hours since all States will be required to submit new applications this year. The commenter recommended increasing the estimate to six hours.

Discussion: The Secretary agrees with the commenter that the average paperwork burden this year is likely to exceed two hours because all States are required to submit new participation agreements.

Changes: The estimated average paperwork burden has been increased from two to six hours.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

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

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 654

Education, Grant programs—
education, State-administered
education, Student aid.

(Catalog of Federal Domestic Assistance
Number 84.185—Robert C. Byrd Honors
Scholarship Program.)

Dated: August 5, 1993.

Richard W. Riley,
Secretary of Education.

The Secretary amends Title 34 of the
Code of Federal Regulations by revising
part 654 to read as follows:

**PART 654—ROBERT C. BYRD
HONORS SCHOLARSHIP PROGRAM**

Subpart A—General

Sec.

654.1 What is the Robert C. Byrd Honors
Scholarship Program?

654.2 Who is eligible for an award?

654.3 What kind of activity may be
assisted?

654.4 What regulations apply?

654.5 What definitions apply?

**Subpart B—How Does a State Apply for a
Grant?**

654.10 What must a State do to apply for a
grant?

654.11 What is the content of a
participation agreement?

**Subpart C—How Does the Secretary Make
a Grant to a State?**

654.20 How does the Secretary approve a
participation agreement?

654.21 How does the Secretary determine
the amount of the grant to each
participating State?

**Subpart D—How Does a Student Apply to
an SEA for a Scholarship?**

654.30 How does a student apply to an SEA
for a scholarship?

**Subpart E—How Does an SEA Select an
Eligible Student to Be Scholar?**

654.40 Who is an eligible student?

654.41 What are the selection criteria and
procedures?

**Subpart F—How Does a Scholar Receive
Scholarship Payments?**

654.50 How does an SEA disburse
scholarship funds?

654.51 What are the continuing eligibility
criteria?

654.52 What are the consequences of a
scholar's failure to meet the eligibility
criteria?

**Subpart G—What Post-Award Conditions
Must an SEA Meet?**

654.60 What requirements must an SEA
meet in the administration of this
program?

Authority: 20 U.S.C. 1070d-31 to 1070d-
41, unless otherwise noted.

Subpart A—General

§ 654.1 What is the Robert C. Byrd Honors
Scholarship Program?

Under the Robert C. Byrd Honors
Scholarship Program, the Secretary
makes grants to the States to provide
scholarships for study at institutions of
higher education to outstanding high
school graduates who show promise of
continued excellence, in an effort to
recognize and promote student
excellence and achievement.

(Authority: 20 U.S.C. 1070d-31, 1070d-33)

§ 654.2 Who is eligible for an award?

(a) States are eligible for grants under
this program.

(b) Students who meet the eligibility
criteria in §§ 654.40 and 654.51 are
eligible for scholarships under this
program.

(Authority: 20 U.S.C. 1070d-33, 1070d-36)

§ 654.3 What kind of activity may be
assisted?

A State may use its funds under this
program, including funds collected from
scholars under § 654.60(a)(3), only to
make scholarship payments to scholars.

(Authority: 20 U.S.C. 1070d-35, 1070d-38)

§ 654.4 What regulations apply?

The following regulations apply to
this program:

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

(1) 34 CFR 75.60-75.62 (regarding the
ineligibility of certain individuals to
receive assistance under part 75 (Direct
Grant Programs)).

(2) 34 CFR part 76 (State-
Administered Programs).

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

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

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

(6) 34 CFR part 82 (New Restrictions
on Lobbying).

(7) 34 CFR part 85 (Governmentwide
Debarment and Suspension
(Nonprocurement) and
Governmentwide Requirements for
Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools
and Campuses).

(b) The regulations in this part 654.
(Authority: 20 U.S.C. 1070d-31 et seq.)

§ 654.5 What definitions apply?

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

EDGAR
Fiscal year
Private
Public
Secretary
State
State educational agency

(b) *Other definitions.* The following
definitions also apply to this part:

Award year means the period of time
from July 1 of one year through June 30
of the following year.

Cost of attendance has the meaning
given that term in section 472 of the
HEA.

Full-time student means a student
enrolled at an institution of higher
education who is carrying a full-time
academic workload, as determined by
that institution under standards
applicable to all students enrolled in
that student's program.

HEA means the Higher Education Act
of 1965, as amended.

High school graduate means an
individual who has—

(i) A high school diploma;
(ii) A General Education Development
(GED) Certificate; or
(iii) Any other evidence recognized by
the State as the equivalent of a high
school diploma.

Institution of higher education means
any public or private nonprofit
institution of higher education,
proprietary institution of higher
education, or postsecondary vocational
institution, as defined in section 481 of
the HEA.

Participating State means a State that
has submitted a participation agreement
that has been approved by the Secretary.

Scholar means an individual who is
selected as a Byrd Scholar.

Scholarship means an award made to
a scholar under this part.

Secondary school year means the
period of time during which a
secondary school is in session, as
determined by State law.

Year of study means the period of
time during which a full-time student at

an institution of higher education is expected to complete the equivalent of one year of course work, as defined by the institution.

(Authority: 20 U.S.C. 1070d-31 *et seq.*, 20 U.S.C. 1088)

Subpart B—How Does a State Apply for a Grant?

§ 654.10 What must a State do to apply for a grant?

(a) To apply for a grant under this program, a State must submit a participation agreement to the Secretary for review and approval by the deadline announced annually by the Secretary in the Federal Register.

(b) On the Secretary's approval of its initial participation agreement for fiscal year 1993 or thereafter, a State need not submit a new participation agreement to be considered for funding under this program in subsequent years, except that any changes in the State's criteria and procedures must be incorporated in a revised participation agreement which must be submitted to the Secretary for review and approval.

(Approved by the Office of Management and Budget under control number 1840-0612)
(Authority: 20 U.S.C. 1070d-35)

§ 654.11 What is the content of a participation agreement?

A State's participation agreement must include the following:

(a) A description of the criteria and procedures that the State, through its State educational agency (SEA), plans to use to administer this program in accordance with the requirements of this part, including the criteria and procedures it plans to use to—

(1) Publicize the availability of Byrd scholarships to students in the State, with particular emphasis on procedures designed to ensure that students from low- and moderate-income families know about their opportunity for participation in the program;

(2) Select eligible students;

(3) Notify scholars of their selections and scholarship awards;

(4) Monitor the continuing eligibility of scholars;

(5) Disburse scholarship funds in accordance with the requirements of § 654.50; and

(6) Collect scholarship funds improperly disbursed.

(b) Assurances that the SEA will—

(1) Comply with the criteria and procedures in its approved participation agreement;

(2) Submit for the prior written approval of the Secretary any changes in the criteria and procedures in the approved participation agreement; and

(3) Expend the payments it receives under this program only as provided in § 654.3.

(Approved by the Office of Management and Budget under control number 1840-0612)

(Authority: 20 U.S.C. 1070d-35 to 1070d-38)

Subpart C—How Does the Secretary Make a Grant to a State?

§ 654.20 How does the Secretary approve a participation agreement?

The Secretary approves a participation agreement if it contains all of the information and assurances required in § 654.11 and is in compliance with the requirements of this part.

(Authority: 20 U.S.C. 1070d-31 *et seq.*)

§ 654.21 How does the Secretary determine the amount of the grant to each participating State?

(a) From the funds appropriated for this program, the Secretary allots to each participating State a grant equal to \$1,500 multiplied by the number of scholarships the Secretary determines to be available to that State on the basis of the formula described in paragraph (b) of this section.

(b) The number of scholarships that the Secretary allots to each participating State for any fiscal year bears the same ratio to the number of scholarships allotted to all participating States as each State's population ages 5 through 17 which is derived from the most recently available data from the U.S. Bureau of the Census bears to the population ages 5 through 17 in all participating States, except that—

(1) Not fewer than 10 scholarships are allotted to any participating State; and

(2) The District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, the Commonwealth of Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands (Palau) each are allotted 10 scholarships.

(Authority: 20 U.S.C. 1070d-34, 1070d-37)

Subpart D—How Does a Student Apply to an SEA for a Scholarship?

§ 654.30 How does a student apply to an SEA for a scholarship?

To apply for a scholarship under this program, a student must follow the application procedures established by the SEA in the student's State of legal residence.

(Authority: 20 U.S.C. 1070d-37)

Subpart E—How Does an SEA Select an Eligible Student To Be a Scholar?

§ 654.40 Who is an eligible student?

A student is eligible to be selected as a scholar if he or she—

(a) Is a legal resident of the State to which he or she is applying for a scholarship;

(b)(1) Is a U.S. citizen or national;
(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) Is a permanent resident of the Trust Territory of the Pacific Islands (Palau);

(c) Becomes a high school graduate in the same secondary school year in which he or she submits the scholarship application;

(d) Has applied or been accepted for enrollment as a full-time student at an institution of higher education;

(e) Is not ineligible to receive assistance as a result of default on a Federal student loan or other obligation, as provided under 34 CFR 75.60; and

(f) Files a Statement of Selective Service Registration Status, in accordance with the provisions of 34 CFR 668.33 of the Student Assistance General Provisions regulations, with the institution he or she plans to attend or is attending.

(Authority: 20 U.S.C. 1070d-36, 50 U.S.C. App. 462, 20 U.S.C. 1091)

§ 654.41 What are the selection criteria and procedures?

(a) The SEA shall establish criteria and procedures for the selection of scholars, in accordance with the requirements of this part, after consultation with school administrators, school boards, teachers, counselors, and parents.

(b) The SEA shall establish the selection criteria and procedures to ensure that it selects scholars—

(1) Who are eligible students under the criteria provided in § 654.40;

(2) Who have demonstrated outstanding academic achievement and show promise of continued achievement;

(3) In a manner that ensures an equitable geographic distribution of awards within the State; and

(4) Without regard to—

(i) Whether the secondary school each scholar attends is within or outside the scholar's State of legal residence;

(ii) Whether the institution of higher education each scholar plans to attend

is public or private or is within or outside the scholar's State of legal residence;

(iii) Race, color, national origin, sex, religion, disability, or economic background; and

(iv) The scholar's educational expenses or financial need.

(Approved by the Office of Management and Budget under control number 1840-0612)

(Authority: 20 U.S.C. 1070d-35, 1070d-35 to 1070d-37)

Subpart F—How Does a Scholar Receive Scholarship Payments?

§ 654.50 How does an SEA disburse scholarship funds?

(a) Except as provided in paragraph (b) of this section, the SEA shall disburse \$1,500 for each year of study for a maximum of four years of study to each scholar who—

(1) Is selected in accordance with the criteria established under § 654.41; and

(2) Meets the requirements for continuing eligibility under § 654.51.

(b)(1) The SEA shall ensure that the total amount of financial aid awarded to a scholar for a year of study does not exceed the total cost of attendance.

(2) The SEA shall ensure that loans are reduced prior to reducing a scholarship awarded under this program.

(c) The SEA shall ensure that the selection process is completed, and the awards made, prior to the end of each secondary school academic year.

(Authority: 20 U.S.C. 1070d-38)

§ 654.51 What are the continuing eligibility criteria?

(a) A scholar continues to be eligible for scholarship funds as long as the scholar continues to—

(1) Meet the eligibility requirements in § 654.40(b), (c), and (f);

(2) Be enrolled as a full-time student at an institution of higher education except as provided in paragraph (b) of this section; and

(3) Maintain satisfactory progress as determined by the institution of higher education the scholar is attending, in accordance with the criteria established in 34 CFR 668.14(a) of the Student Assistance General Provisions regulations.

(b) In order to be eligible for scholarship funds, a scholar must be enrolled full time for the first year of study. If after the first year of study, the SEA determines that unusual circumstances justify waiver of the full-time attendance requirement, the scholar may enroll part time and continue to receive a scholarship payment. The SEA shall prorate the

payment according to the scholar's enrollment status for the academic period during which he or she continues to be enrolled on a part-time basis but remains otherwise eligible for the award. For example, if a scholar for whom the full-time enrollment requirement is waived by the SEA is enrolled as a half-time student for one semester, he or she is eligible to receive one-quarter of his or her scholarship during that semester.

(Authority: 20 U.S.C. 1070d-33, 1070d-35)

§ 654.52 What are the consequences of a scholar's failure to meet the eligibility criteria?

(a)(1) An SEA may permit a scholar to postpone or interrupt his or her enrollment at an institution of higher education without forfeiting his or her scholarship for up to 12 months, beginning on the date the scholar otherwise would have enrolled in the institution after the SEA awarded his or her scholarship or the date the scholar interrupts enrollment.

(2) A scholar who postpones or interrupts his or her enrollment at an institution of higher education in accordance with standards established by the SEA is not eligible to receive scholarship funds during the period of postponement or interruption, but is eligible to receive scholarship payments on enrollment or re-enrollment at an institution of higher education.

(3) A scholar's periods of postponement or interruption, taken in accordance with standards established by the SEA and not in excess of 12 months, are not considered periods of suspension for the purposes of calculating the 12 months provided for suspension prior to termination under paragraph (b)(2) of this section.

(b)(1) Except as provided in paragraph (a) of this section, if an SEA finds that a scholar fails to meet the requirements of § 654.51 within an award year, it shall suspend the scholar's eligibility to receive scholarship funds until the scholar is able to demonstrate to the satisfaction of the SEA that he or she meets these requirements.

(2) Except as provided in paragraph (b)(3) of this section, a scholar's eligibility for a scholarship is terminated when the total of his or her suspension periods exceeds 12 months.

(3) In exceptional circumstances, the SEA may extend the 12-month suspension period without terminating a scholar's eligibility under paragraph (b)(2) of this section, in accordance with standards established by the SEA.

(c) A scholar who receives an award for a period for which the SEA subsequently determines the scholar

was ineligible under the requirements in § 654.40 or 654.51 shall repay to the SEA the total amount of the scholarship funds received for the period during which he or she was ineligible.

(Authority: 20 U.S.C. 1070d-35, 1070d-35 to 1070d-38)

Subpart G—What Post-Award Conditions Must an SEA Meet?

§ 654.60 What requirements must an SEA meet in the administration of this program?

(a) To receive and continue to receive payments under this part, an SEA shall—

(1) Comply with the criteria, procedures, and assurances in its approved participation agreement;

(2) Disburse the scholarship funds in accordance with § 654.50 to the scholar, the institution of higher education in which the scholar enrolls, or copayable to the scholar and the institution of higher education in which the scholar enrolls;

(3) Collect any scholarship funds improperly disbursed under § 654.50;

(4) Make reports to the Secretary that the Secretary deems necessary to carry out the Secretary's functions under this part; and

(5) Except as provided in paragraph (b) of this section, expend all funds received from the Secretary for scholarships during the award period specified by the Secretary for those funds.

(b) After awarding all scholarship funds during an award year, as required by paragraph (a)(5) of this section, an SEA may retain any funds that are subsequently returned or collected for scholarship awards in the following award period.

(Approved by the Office of Management and Budget under control number 1840-0612)

(Authority: 20 U.S.C. 1070d-33, 1070d-35)

[FR Doc. 93-19265 Filed 8-10-93; 8:45 am]

BILLING CODE 4000-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-4691-7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of State Implementation Plan (SIP) inadequacy and call for SIP revision for Lawrence County, Ohio.

SUMMARY: USEPA hereby gives notice that it has: Formally notified the

[COMMITTEE PRINT]

A COMPILATION OF FEDERAL
EDUCATION LAWS
VOLUME III—HIGHER EDUCATION
As Amended Through December 31, 1992

PREPARED FOR THE USE OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
FIRST SESSION



JANUARY 1993

Serial No. 103-A

Printed for the use of the House Committee on Education and Labor
WILLIAM D. FORD, *Chairman*

(e) **FIVE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.**—Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

(f) **MINIMUM ALLOCATIONS.**—The Secretary shall not allocate an amount less than—

(1) \$150,000 for each project under the high school equivalency program, and

(2) \$150,000 for each project under the college assistance migrant program.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated for the high school equivalency program \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d-2) Enacted October 3, 1980, P.L. 96-374, sec. 406, 94 Stat. 1411; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1341; amended June 3, 1987, P.L. 100-50, sec. 7, 101 Stat. 340; amended July 23, 1992, P.L. 102-325, sec. 405, 106 Stat. 507.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

STATEMENT OF PURPOSE

SEC. 419A. It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(20 U.S.C. 1070d-31) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(a), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1343.

[Section 419B was repealed by P.L. 102-325, sec. 406(a), 106 Stat. 508.]

SCHOLARSHIPS AUTHORIZED

SEC. 419C. (a) **PROGRAM AUTHORITY.**—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) **PERIOD OF AWARD.**—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.

(c) **USE AT ANY INSTITUTION PERMITTED.**—A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) **BYRD SCHOLARS.**—Individuals awarded scholarships under this subpart shall be known as “Byrd Scholars”.

(20 U.S.C. 1070d-33) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(b), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(b), 106 Stat. 508.

ALLOCATION AMONG STATES

SEC. 419D. (a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to \$1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) **NUMBER OF SCHOLARSHIPS AVAILABLE.**—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State’s population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) **USE OF CENSUS DATA.**—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(20 U.S.C. 1070d-34) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(c), 106 Stat. 509.

AGREEMENTS

SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart \$1,500.

(20 U.S.C. 1070d-35) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(c), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102-325, sec. 406(g)(2), 106 Stat. 509.

ELIGIBILITY OF SCHOLARS

SEC. 419F. (a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(20 U.S.C. 1070d-36) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

SELECTION OF SCHOLARS

SEC. 419G. (a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(20 U.S.C. 1070d-37) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(d), 106 Stat. 509.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 419H. (a) AMOUNT OF AWARD.—Each student awarded a scholarship under this subpart shall receive a stipend of \$1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(20 U.S.C. 1070d-38) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(e), 106 Stat. 509.

CONSTRUCTION OF NEEDS PROVISIONS

SEC. 419J.¹ Except as provided in section 471, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

(20 U.S.C. 1070d-40) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102-325, sec. 406(f), 106 Stat. 509.

AUTHORIZATION OF APPROPRIATIONS

SEC. 419K. There are authorized to be appropriated for this subpart \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d-41) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1346; amended July 23, 1992, P.L. 102-325, sec. 406(h), 106 Stat. 509.

SUBPART 7²—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SEC. 420B. (a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

- (1) a description of the program to be established;
- (2) assurances by the applicant to the Secretary that—
 - (A) not less than two-thirds of the participants in the program are low-income individuals;
 - (B) the participants require the services to pursue successfully a program of education beyond high school;
 - (C) the participants are enrolled at the institution which is the recipient of the grant;
 - (D) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and
 - (E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and
- (3) such information (and meet such conditions) as may be required by the Secretary.

¹ Section 419I was repealed by P.L. 102-325, sec. 406(g)(1), 106 Stat. 509.

² Section 420 was repealed by P.L. 102-325, sec. 407, 106 Stat. 510; and section 420A was repealed by P.L. 102-325, sec. 408, 106 Stat. 510.