

§ 116.57 Copyrights and patents.

(a) If a copyright is obtained on materials produced through a project with financial assistance under Title I of the Act, the Federal Government shall be granted a nonexclusive, irrevocable, royalty-free license to reproduce and publish the material so copyrighted, including the power to sublicense for all governmental purposes.

(b) Any materials of a patentable nature produced through a project with financial assistance under Title I of the Act shall be subject to the provisions of Parts 6 and 8 of this title.

[33 F.R. 17790, Nov. 28, 1968]

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES (WHICH FOR THE PURPOSES OF THIS PART MEANS BOOKS, PERIODICALS, DOCUMENTS, AUDIOVISUAL MATERIALS, AND OTHER RELATED LIBRARY MATERIALS), TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

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AUTHORITY: The provisions of this Part 117 issued under sec. 703, 79 Stat. 57, as renumbered by secs. 201-207, 79 Stat. 36-37, and sec. 161, 80 Stat. 1204; 20 U.S.C. 883. Interpret or apply secs. 701, 703-705, 79 Stat. 55, 57-58, as renumbered by sec. 161, 80 Stat. 1204; 20 U.S.C. 821-827, 881, 883-885.

SOURCE: The provisions of this Part 117 appear at 32 F.R. 2753, Feb. 9, 1967, unless otherwise noted.

Subpart A—Definitions

§ 117.1 Definitions.

As used in this part—

(a) "Act" means the Elementary and Secondary Education Act of 1965 (Public Law 89-10), as amended.

(b) "Children" means those persons who are in attendance in elementary or secondary schools of a State which provide education or which comply with State compulsory school attendance laws or are otherwise recognized by some procedure customarily used in the State. The age limits are the permissible ages for attendance at the public elementary and secondary schools of the State, but children does not include persons enrolled in adult education courses, or in courses beyond grade 12.

(c) "Commissioner" means the U.S. Commissioner of Education.

(d) "Elementary school" means a day or residential school which provides elementary education, as determined under State law or as determined by the Department of the Interior or the Department of Defense.

(e) "Fiscal year" means the period beginning on July 1 and ending on the following June 30. (A fiscal year is designated by the calendar year of the ending date.)

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. It also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school program.

(g) "Public agency" means a legally constituted organization of government under public administrative control and direction.

(h) "Private elementary and secondary schools" means nonprofit or profit schools which provide elementary and secondary education as determined under State law, not beyond grade 12, and which are controlled by other than a public authority but which either comply with the State compulsory attendance laws or are otherwise recognized by some procedure customarily used in the State.

(i) "School library resources, textbooks, and other printed and published instructional materials" means: (i) School library resources are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs and tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are processed and organized for use by elementary or secondary school children and teachers; (ii) "Textbooks" means books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each pupil in such class or group; (iii) "Other printed and published instructional materials" are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs and

tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are not processed and organized for use by elementary or secondary school children and teachers. These terms include those printed and published instructional materials which are suitable for and are to be used by children and teachers in elementary and secondary schools and which with reasonable care and use may be expected to last more than 1 year. The terms do not include furniture or equipment.

(j) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, or as determined by the Department of the Interior or the Department of Defense, except that secondary education does not include any education provided beyond grade 12.

(k) "Standards" means those measures (established by the State agency, the Department of the Interior, or the Department of Defense for administration of a plan under Title II of the Act or established by other authoritative groups or individuals and accepted for such administration) which are used for making determinations of the adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials to be made available for the use of children and teachers in elementary and secondary schools.

(l) "State" means, in addition to the several States in the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(m) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(n) "Teacher" means a person who is engaged in carrying out the instructional program of an elementary or secondary school, including a principal, guidance counselor, school librarian, or other member of the instructional or supervisory staff.

Subpart B—State or Department Plan—General Provisions

§ 117.2 State or Department plan.

(a) *Purpose.* A basic condition for the grant of Federal funds to a State or the payment of funds under Title II of the Act to the Department of the Interior or the Department of Defense is (1) a plan which meets the requirements of Title II of the Act in providing a program under which funds so granted or paid will be expended solely for the acquisition of school library resources, textbooks, and other printed and published instructional materials and the administration of the plan, and (2) an annual description of the projected program activities to be carried out under the plan during the forthcoming fiscal year.

(b) *Effects of a State plan.* The State plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made, and the basis for determining the propriety of the expenditures of those funds.

(c) *Effect of a Department plan.* A plan, submitted by the Department of the Interior or by the Department of Defense when approved by the Commissioner, shall constitute the basis on which payments will be made to those Departments under Title II of the Act and the basis for determining the propriety of the expenditures of those funds by those Departments.

(d) *Amendments.* The administration of the program shall be kept in conformity with the approved plan. Whenever there is any material change in the content or administration of the program, or when there has been any material change in pertinent State law or in the organization, policies, or operations of the State agency affecting the program under the plan, the plan shall be appropriately amended.

(e) *Submission.* A plan and all amendments thereto shall be submitted to the Commissioner by a duly authorized officer of the State agency, the Department of the Interior, or the Department of Defense. The plan shall indicate the official or officials authorized to submit plan materials. The State agency shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan.

(f) *Certificate by the State agency.* The State plan and all amendments

thereto shall include as an attachment a certificate of the officer of the State agency authorized to submit the State plan to the effect that the State plan or amendment has been adopted by the State agency and that the State plan, or State plan as amended, will constitute the basis for operation and administration of the program under Title II of the Act.

(g) *Certificate of the State Attorney General or other appropriate State legal officer.* The State plan shall also include, as an attachment, a certificate by the appropriate State legal officer to the effect that the State agency named in the plan is the "State agency" required by section 203(a)(1) of the Act to have authority, either directly or through arrangements with other State or local public agencies, to act as the sole agency to submit the State plan; that such agency has authority under State law to carry out or arrange for the carrying out of the programs described therein; and that all the State plan provisions are consistent with State law.

(h) *Approval by the Commissioner.* The Commissioner will approve each plan, or modifications thereof, and the annual description of projected program activities which he determines meets the applicable requirements of the Act and regulations in this part, and will notify the applicant of the granting, conditioning, or withholding of approval in each such case. However, no final action with respect thereto, other than one of approval, will be taken by the Commissioner unless he first notifies the applicant of his proposed action and in connection therewith affords the applicant a reasonable opportunity for a hearing on whether the affected plan or modification meets such requirements.

(i) *Withholding.* Whenever the Commissioner, after reasonable notice and opportunity for a hearing, finds: (1) That the plan fails to comply with the requirements of the Act and the regulations in this part; or (2) that in the administration of the plan, there is a failure to comply substantially with any such provisions, the Commissioner will notify the applicant that said applicant will not be regarded as eligible to participate in the program under Title II of the Act until he is satisfied that there is no longer any such failure to comply.

(j) *Effective date of the plan.* Funds under Title II of the Act may not be applied to any expenditure (as defined in

§ 117.19(b)), prior to the date on which the State plan was received in substantially approvable form by the Commissioner.

§ 117.3 Allocation of school library resources, textbooks, and other printed and published instructional materials.

(a) *General.* The plan shall set forth the criteria used in determining need and the proportions of the allocation to be used for school library resources, textbooks, and other printed and published instructional material provided under Title II of the Act among the children and teachers in the elementary and secondary schools, which criteria shall incorporate the provisions of paragraphs (b) and (c) of this section.

(b) *Relative need.* The criteria shall, on the basis of a comparative analysis and the application of standards, as defined in paragraph (k) of § 117.1, establish the relative need as determined from time to time of children, as well as teachers, for school library resources, textbooks, and other printed and published instructional materials to be provided under the plan. Such criteria shall include priorities for the provision of such materials on the basis of several factors such as the requirements of elementary and secondary instruction, quality and quantity of such materials now available, requirements of children and teachers in special or exemplary instructional programs, the cultural or linguistic needs of children or teachers, the degree of economic need, and degree of previous and current financial efforts for providing such materials in relation to financial ability. The distribution of such resources, textbooks, and materials for children and teachers solely on a per capita basis does not satisfy this provision.

(c) *Equitable basis.* The criteria established under a State plan shall provide for the allocation of school library resources, textbooks, and other printed and published instructional materials in such a way as to provide assurance that, to the extent consistent with State law, such resources, textbooks, and materials are provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the

State. However, said equitable provision shall not be effectuated by means of transfer of funds to private schools or purchase by them of such library resources, textbooks, and materials.

§ 117.4 Selection of school library resources, textbooks, and other instructional materials.

(a) *Criteria.* Each plan shall set forth the specific educational and other criteria to be used (1) in selecting the school library resources, textbooks, and other instructional materials to be made available to children and teachers under Title II of the Act and (2) as the basis for determining the proportions of the allotment for each fiscal year which will be spent for the acquisition of (i) school library resources, (ii) textbooks and (iii) other printed and published instructional materials. The ultimate responsibility for the selection under those criteria of all school library resources, textbooks, and other instructional materials for the use of children and teachers in public and private elementary and secondary schools in a State shall be that of a State or local public agency. If proportions for the three categories of materials are changed significantly, the plan should be so amended.

(b) *Public control.* Each plan shall provide that title to, and control and administration of the use of, school library resources, textbooks, and other instructional materials acquired under Title II of the Act shall vest only in a public agency (as defined in § 117.1(g)), or the United States, or Department or Agency thereof. Each State plan shall set forth the method by which such resources, textbooks, and other instructional materials acquired under Title II of the Act will be limited to those approved by an appropriate State or local educational authority or agency for use, or to those which are used, in a public elementary or secondary school of the State.

(c) *Religious worship or instruction.* Each plan shall provide that funds under Title II of the Act will not be used for religious worship or instruction, or for school library resources, textbooks, or materials to be used in such worship or instruction.

§ 117.5 Methods and terms of availability.

(a) *General.* Each plan shall set forth the methods and terms by which

the school library resources, textbooks, and other instructional materials acquired under Title II of the Act will be made available for the use of children and teachers in the elementary and secondary schools. Each plan shall contain an assurance that funds provided under Title II of the Act will be applied for the benefit of children and teachers rather than inure to the enrichment or benefit of any private school. With respect to children and teachers in private schools, each State plan shall provide that (1) library resources, textbooks, and other printed and published instructional materials are to be made available to children and teachers and not to institutions; (2) such materials are to be made available on a loan basis only; (3) a public agency will retain title to, and control and administration of the use of, such materials; (4) such materials must be limited to those which have been approved by an appropriate State or local educational agency or authority for use, or, are used in a public elementary or secondary school of that State; and (5) books and materials must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the legislation will furnish increased opportunities for learning. It shall also assure that the Federal funds made available under this title will not be used to supplant or duplicate, inappropriately, functions of the public library system of the State.

(b) *Control of materials.* Each State plan shall contain an assurance that school library resources, textbooks, and other printed and published instructional materials acquired under Title II of the Act shall be available to children and teachers in elementary and secondary schools on a loan basis only and that there will be a proper accounting of such school library resources, textbooks, and other printed and published instructional materials. Each plan shall provide for the control, recall, and replacement of school library resources, textbooks, and other printed and published instructional materials. The public agency having control shall impose responsibility upon the children and teachers who borrow school library resources, textbooks, and other printed and published instructional materials (for loss, damage, failure to return when required, or other violations of the terms and conditions of the loan) which is comparable to that im-

posed upon borrowers of similar items purchased with funds derived from other sources.

(c) *Accessibility of loaned materials.* Each State plan shall provide, unless prohibited from doing so by State law, that school library resources, textbooks, and other printed and published instructional materials acquired with funds under Title II of the Act will be made available for the use of children and teachers in private elementary and secondary schools on an equitable basis. The State plan shall provide for the maintenance of catalogs or lists of instructional materials acquired under the State plan or such other system or systems as may be approved by the Commissioner which will assure the reasonable accessibility and availability of instructional materials to children and teachers in both public and private schools. Such catalogs or lists may be limited in content, for example, to instructional materials designed for children with special needs or to instructional materials supporting particular areas of curriculum and which are not otherwise generally available to the affected children and teachers. Such catalogs or lists or other systems may be maintained on the basis of such limited and defined geographical areas as may be appropriate to assure distribution of materials on a feasible basis. Another method may be the use of a central depository system. The circulation of such instructional materials shall be subject to such restrictions as may be required to maintain an equitable distribution thereof among the children and teachers. The loan terms should be based on educational principles of service to instructional programs so that the children and teachers for whom the school library resources, textbooks, and other instructional materials are selected will not be deprived of their use when needed.

(d) *Charge for use.* No charge may be levied against children and teachers for the use of any school library resources, textbooks, and other instructional materials acquired under Title II of the Act.

(e) *Inventory.* The public agency in which title to school library resources, textbooks, and other printed and published instructional materials is vested, and the Department of the Interior and the Department of Defense, shall indicate ownership by appropriate marking of each item in a permanent manner and will maintain an inventory record

of such items, revised annually. The inventory records shall be maintained for the useful life of such items, and shall be made available to the Commissioner upon request.

(f) *Methods of inventorying.* The methods for inventorying and maintaining records of such materials employed by the public agency retaining title will be subject to the approval of the State agency administering the plan. Inventory records of such materials shall be compiled and maintained by the public agency retaining title and actual administrative control through the use of publicly employed personnel. The methods of inventorying shall include appropriate provision for substantiating the inventories by on-site inspection. The State agency administering the plan shall make an annual report to the Commissioner of the results of such inventorying and recordkeeping procedures as may be employed, adopted, or prescribed, including the nature and type of any discrepancies and the manner of disposition of same. The State plan shall set forth a policy for moving items from inventory, by procedures consistent with established State or local public agency determinations relative to loss, obsolescence, or rate of deterioration of school library resources, textbooks, and other instructional materials.

§ 117.6 Coordination with public library programs.

The State plan shall contain an assurance that, in order to secure the effective and efficient use of Federal funds, and to avoid duplication of effort, there has been and will be appropriate coordination at both State and local levels between the program carried out under Title II of the Act with respect to school library resources and any program carried out under the Library Services and Construction Act (20 U.S.C. ch. 16).

§§ 117.7—117.10 [Reserved]

Subpart C—Availability of Title II Funds

§ 117.11 Allotment of funds.

(a) *State allotment.* The Federal Government will pay from each State's allotment amounts equal to the sums expended by the State under an approved State plan for (1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and

teachers in public and private elementary and secondary schools in the State; and (2) administration of the State plan. In no case will the amount paid for administration of the State plan for any fiscal year exceed an amount equal to 5 percent of the total amount of the projects approved by the State agency under Title II of the Act for that year or \$50,000 whichever is greater.

(b) *Reduction in State allotment.* In any State which has an approved State plan and in which no State agency is authorized by law to provide school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in that State, the Commissioner will arrange for the provision on an equitable basis of such resources, textbooks, and other materials for the use of such children and teachers. In such an event, the Commissioner will pay the cost thereof for any fiscal year out of the State's allotment.

(c) *Allotment to the Departments of the Interior and Defense.* Such amount shall be allotted to the Secretary of the Interior as is necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and to the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense.

§ 117.12 Acquisition.

Acquisition of school library resources, textbooks, and other printed and published instructional materials in which there may be financial participation under Title II of the Act means the purchase, lease-purchase, or straight lease of such resources, textbooks, and materials and includes the necessary and essential cost of ordering, processing, and cataloging such resources, textbooks, and materials and delivery of them to the initial place at which they are made available for use. Funds under Title II of the Act are not available for the re-binding or repair of such resources, textbooks, and materials.

§ 117.13 Administration of the State plan.

(a) *Functions.* Funds allotted to States under Title II of the Act are available, up to the limits specified in § 117.11,

for the administration of the State plan. Of the funds so made available for administration of the State plan, appropriate amounts shall be made available to local educational agencies for responsibilities assigned by the State to such local educational agencies for the making of loaned materials accessible in accordance with § 117.5(c). The administration of the State plan involves functions such as:

(1) The development of short- and long-term policy for making school library resources, textbooks, and other printed and published instructional materials available for the use of children and teachers in the elementary and secondary schools of a State;

(2) The development, revision, dissemination, and evaluation of standards relating to the selection, acquisition, and use of school library resources, textbooks, and other printed and published instructional materials;

(3) State supervisory services and evaluation of programs for the acquisition and use of school library resources, textbooks, and other printed and published instructional materials;

(4) Inventorying of acquisitions made under Title II of the Act and the maintaining of other requisite records;

(5) The control of loaned materials in accordance with section 117.5(c); and

(6) The rendering of such reports as the Commissioner may require.

(b) *Eligible expenditures for administration of the State plan.* Funds under Title II of the Act may be used for only those additional expenses incurred as a direct result of administration of the State plan and include such categories as:

(1) Salaries, wages, and other personal service costs of permanent and temporary staff;

(2) Communications;

(3) Utilities;

(4) Consumable office supplies, including stationery;

(5) Printing and the acquisition of printed and published materials for use of administrative and supervisory staff;

(6) Travel and transportation expenses;

(7) Acquisition (including rental), maintenance, or repair of office equipment, or that equipment needed for supervisory and demonstration functions, for use of the administrative and supervisory staff;

(8) Minor alterations in previously completed building space used or to be used for administration of the program under Title II of the Act which would be needed to make effective use of equipment acquired for administration. Excluded are building construction, structural alterations to buildings, building maintenance, repair, or renovation.

(9) Fair rental of office space in privately or publicly owned buildings, subject to the following provisions:

(i) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(ii) The State will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) Expenditures represent a current cost;

(v) In the case of a publicly owned building, like charges are made to other State agencies occupying similar space for similar purposes.

§ 117.14 Administration of the Departments of the Interior and Defense plans.

An amount not to exceed 5 percent of the funds made available to the Departments of the Interior and Defense shall be available for the administration of the plans of the Departments, respectively, in a manner consistent with § 117.13, except that funds will not be available for the rental of facilities.

§§ 117.15–117.18 [Reserved]

Subpart D—Fiscal Procedures

§ 117.19 State fiscal procedures.

(a) *State administration.* The State plan shall prescribe such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds under Title II of the Act. Accounts and supporting documents relating to the program under Title II of the Act shall be adequate to permit an accurate and expeditious audit of the program.

(b) *Expenditures.* For the purpose of the regulations in this part, the expenditure (as hereafter defined) of funds under Title II of the Act shall occur prior to the end of the fiscal year in which such funds are to be available. The expenditures shall be deemed to have occurred

upon the date of execution of documentary evidence of binding commitments for the acquisition of goods and services acquired by purchase order or contract, including a binding commitment by a State agency to pay a local educational agency a fixed charge for the ordering and processing of instructional materials. However, personal services, rental, and travel are expenditures on the basis of the time when the services are rendered or received, the rental facilities are used, and the travel performed, rather than on the basis of entering into a binding commitment. All such binding commitments shall be liquidated by the end of the fiscal year following the fiscal year in which the binding commitments were entered into or the end of such additional period of time as the Commissioner may grant on the basis of a request from the State.

(c) *Audit of other participating agencies.* All expenditures of funds under Title II of the Act shall be audited either by the State or by other appropriate auditors. The State plan shall indicate how the accounts of those other State and local public agencies participating under the State plan through arrangements with the sole State agency for administration will be audited; and, when such an audit is to be carried out, how the State agency will secure information necessary to assure proper use of any funds under Title II of the Act turned over to such other agency or agencies for expenditure. The State plan shall name the State agency in which the reports of such audits will be maintained.

§ 117.20 Federal fiscal audits.

The State agency's program expenditure records are to be audited by the Federal Government to determine whether the State agency has properly accounted for Federal funds.

§ 117.21 Transfer of funds to other State or local agencies.

The State plan shall set forth the policies and procedures to be used in the payment of funds to other State or local public agencies by the State agency administering the State plan, either as reimbursement for actual expenditures, or as an advance prior to expenditures, for the acquisition of school library resources, textbooks, and other printed and published instructional materials, and for administration of the State plan.

§ 117.22 Adjustments.

The State agency in its maintenance of program expenditures, accounts, records, and reports shall make promptly any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State agency's financial reports filed with the Commissioner.

§ 117.23 Proration of costs.

Funds under Title II of the Act are available only with respect to that portion of any expenditure which is attributable to an activity under the State plan. The State plan shall specify the basis for identifying and the method to be used in prorating expenditures attributable solely to State plan activities. The State agency shall include in the description of its projected program submitted to the Commissioner for each fiscal year its prorated expenditures for salaries attributable to State plan activities. The State agency must also maintain records (documented on a before-and-after-the-fact basis) to substantiate the proration of expenditures for applicable items such as salaries, travel, rent, and equipment.

§ 117.24 Maintenance of level of support.

The State plan shall set forth the policies and procedures designed to assure that funds made available under Title II of the Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private school funds that would in the absence of such funds be made available for school library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds. Such policies and procedures shall take into consideration the total amount of State, local, and private school funds budgeted for expenditure in the current fiscal year for the acquisition of school library resources, textbooks, and other printed and published instructional materials; as compared with the total amount of State, local, and private school funds actually expended in each of the two most recent fiscal years for which the information is available for the acquisi-

tion of school library resources, textbooks, and other printed and published instructional materials.

§§ 117.25–117.29 [Reserved]

Subpart E—State Administration

§ 117.30 State agency for administration.

(a) *Designation.* The State plan shall give the official name of the agency which will be, either directly or through arrangements with State or local public agencies, the sole agency for administering the plan.

(b) *Authority and organization.* The State plan shall set forth the authority of the State agency under State law to submit the plan and to administer and supervise the programs set forth therein, including a description of both the legal and functional relationships between the State agency and other State and local public agencies for the purpose of carrying out the State plan. Citations to, or copies of, all directly pertinent statutes and interpretations of law made by appropriate State officials, whether done by regulations, policy statement, opinion of an authorized State legal officer, or a court decision, shall be furnished as part of the plan or in the appendix. All copies must be certified as correct by an appropriate official.

(c) *Staff for administration.* The State plan shall describe, by chart or otherwise, the organization of the State agency staff for administration of the State plan. The lines of authority within the administrative unit or units responsible for the programs under the plan shall be shown, together with pertinent administrative arrangements or relationships of such unit or units to the rest of the State agency, and to other State and local public agencies utilized to carry out the State plan.

§ 117.31 Custody and expenditure of funds.

The State plan shall designate the officer or officers who will receive, provide for the custody of all funds to be expended, and authorized expenditures.

§ 117.32 Duties and qualifications of professional personnel.

(a) *Staff.* The State plan shall describe the duties of State administrative and supervisory positions, existing and proposed, under the State plan. The State plan shall also set forth the qualifications of all professional administra-

tive and supervisory positions under the State plan. If State statutes or regulations establish such positions and give such information, the plan shall so state.

(b) *Advisory committees.* If State advisory committees are used with respect to one or more aspects of the State plan, the plan shall describe the membership, method of establishment, and duties, including the procedures for the payment of the committees' expenses, if any.

§ 117.33 Officials not to benefit.

No member of the staff of a State or local educational agency may participate in the administration of a program under Title II of the Act, and no person may serve on an advisory committee established to assist either with planning for such program or with its administration, if such person will receive any benefit or remuneration in the form of a commission, percentage, contingent fee, brokerage fee, or otherwise, as a result of any contract for the acquisition of school library resources, textbooks, or other printed and published instructional materials under such a program or as a result of the granting or withholding of approval of the acquisition or use of any school library resources, textbooks, or other printed and published instructional material under Title II of the Act. The State agency administering the State plan shall take such action as is necessary to assure itself that preferential treatment on the basis of authorship or other personal interests will be avoided in relation to the sale or distribution of school library resources, textbooks, and other printed and published instructional materials under Title II of the Act.

§ 117.34 Continuing review by Commissioner of State administration.

In order to assist the State agency in adhering to statutory requirements and to the provisions of its approved State plan, the Commissioner will conduct periodic review of the administration of programs under Title II of the Act.

§ 117.35 Administration and evaluation.

Provision shall be made in the State plan and the plans of the Department of the Interior and the Department of Defense for both administrative review and evaluation by the Department or the State agency of the program and operations under the plan at least annually for the purpose of appraising their

scope, status, and administration. Such evaluation will be done in relation to the criteria used for equitable distribution and the identifying and serving of needs and will include the review, redefinition, and refinement of meaningful standards as to adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials which are selected and distributed, and the effectiveness in making such resources, textbooks, and other materials available for the use of children and teachers in elementary and secondary schools. The State agency shall include a report of such administrative review and evaluation in the annual report of the State agency.

§ 117.36 Reports and records.

The State plan and the plans of the Department of the Interior and the Department of Defense shall provide that the Department or the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time, in such form, and containing such information as the Commissioner may consider necessary to enable him to perform his duties under the Act and will keep such records and afford such access thereto, and will comply with such other requirements, as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 117.37 Retention of records.

(a) *General rule.* The State agency shall provide for keeping accessible and intact all records supporting claims for funds under Title II of the Act or relating to the accountability of the grantee or funded agency for expenditure of such funds.

(1) For 3 years after the close of the fiscal year in which the expenditure was made;

(2) Until the State agency is notified that such records are not needed for program administration review; or

(3) Until the State agency is notified by the Department of Health, Education, and Welfare of a completion of the fiscal audit, whichever is latest.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be maintained until necessary adjustments have been reviewed and cleared by the Department of Health, Education, and Welfare.

(c) *Inventories of equipment for administration of the State plan.* Where equipment which costs \$100 or more per unit is purchased by the State with Federal funds for use in administration of the State plan, inventories and other records supporting accountability shall be maintained for the useful life of such equipment or until the State agency is notified of the completion of the review and audit of the Department of Health, Education, and Welfare covering the disposition of such equipment, whichever is sooner. Records supporting accountability of school library resources, textbooks, and other printed and published instructional materials shall be maintained in accordance with § 117.5.

§§ 117.38–117.42 [Reserved]

Subpart F—Payment Procedures

§ 117.43 Financial reports.

Reports. Each State agency shall submit, in accordance with procedures established by the Commissioner:

(a) Following the end of the fiscal year, a report of the total expenditures made under the plan during the fiscal year; and

(b) Such other reports as are periodically needed to account properly for funds.

§ 117.44 Payment of funds under Title II of the Act.

Funds under Title II of the Act to pay for amounts expended by a State in carrying out its State plan will be limited to the amount necessary to meet current needs.

§ 117.45 Withholding of funds.

Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any Federal requirements.

§ 117.46 Reallotment.

(a) *In general.* The amount of any State allotment under Title II of the Act for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment, from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under Title II of the Act for

that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(b) *Statements of anticipated need.* In order to provide a basis for reallocation by the Commissioner under Title II of the Act, each State agency administering a program under Title II of the Act, shall if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. Such further information as the Commissioner may request for the purpose of making reallocations shall be reflected in such statements.

(c) *Lack of carryover.* No allotment (or reallocation) of the funds may be carried over for use during the subsequent fiscal year.

PART 118—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

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AUTHORITY: The provisions of this Part 118 issued under 5 U.S.C. 301, unless otherwise noted.

SOURCE: The provisions of this Part 118 appear at 33 F.R. 11281, Aug. 8, 1968, unless otherwise noted.