

Including assignment as security, except to another eligible lender.

(b) The Commissioner shall be notified of any assignment of a note insured under this subpart where the right to receive interest payments has also been assigned. The borrower shall be notified of the assignment of any note insured under this subpart where the assignment results in his being required to make installment payments or direct other matters connected with the loan to another party.

(c) The approval of the Commissioner is required prior to transfer or assignment of a note to any eligible lender who has not entered into an agreement with the Commissioner pursuant to this subpart. The Commissioner shall approve such transfer or assignment only if he has assurance that all matters required of lenders under this part will be complied with by one or more of the parties to such transfer or assignment.

(d) The insurance coverage on notes transferred or assigned in accordance with the provisions of this section shall remain in full force and effect and any matters required to lenders in order to perfect a claim on such notes under this part may be performed by the transferee or assignee.

#### § 178.43 Termination of insurance.

The agreement covering insurance of loans provided for in § 178.32 may be terminated after reasonable notice and an opportunity for a hearing, if the Commissioner finds the lender has failed to comply with any of the provisions of this part including (1) the exercise of reasonable care and diligence in the making and collection of loans, (2) payment of premiums required pursuant to § 178.36, or (3) the filing of such reports and the keeping of such records as may be required pursuant to § 178.41. After issuance to and the receipt of such notice by the lender, and pending action taken on the basis of a hearing, if any, the Commissioner shall no longer issue certificates of loan insurance pursuant to § 178.32(b).

#### § 178.44 Forbearance.

Nothing in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner.

## PART 180—DESEGREGATION OF PUBLIC EDUCATION

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**AUTHORITY:** Title IV of the Civil Rights Act of 1964, 78 Stat. 246, as amended (42 U.S.C. 2000c-2000c-9), unless otherwise noted.

**SOURCE:** 41 FR 1877, Jan. 12, 1976, unless otherwise noted.

### Subpart A—General Provisions

#### § 180.01 Purpose.

The purpose of this part is to provide for awards as authorized by sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964, as amended, for technical assistance, training institutes, and grants to school boards in connection with desegregation of public elementary and secondary schools.

(42 U.S.C. 2000c)

#### § 180.02 Definitions.

Except as otherwise specified, the following definitions shall apply to the terms used in this part:

(a) (1) "Desegregation" means (except for purposes of §§ 180.16 and 180.26) the assignment of students to public schools and within such schools without

regard to their race, color, religion, sex, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance. For purposes of this paragraph, overcoming racial imbalance means the assignment of students to correct conditions of segregation or separation (on the basis of race, color, religion, or national origin) not resulting from State or local law or official action.

(2) For purposes of §§ 180.16 and 180.26, "desegregation" means the assignment of students to public schools and within such schools in such manner as to provide such students with an equal opportunity for effective participation in educational programs despite English language deficiencies of such students which result because they are from environments in which the dominant language is other than English.

(42 U.S.C. 2000c(b); *United States v. Jefferson County Board of Education*, 372 F. 2d 836, 878-879 (5th Cir. 1966), cert. den. 389 U.S. 840 (1967); *Lau v. Nichols*, 414 U.S. 563 (1974))

(b) "Public school" means any elementary or secondary educational institution, provided that such public school is operated by a State, subdivision of a State, or government agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(42 U.S.C. 2000c(c))

(c) "School board" means any agency or agencies which administer a system of one or more public schools, and any other agency which is responsible for the assignment of students to or within such system.

(42 U.S.C. 2000c(d))

(d) "Institution of higher education" means an educational institution in any State which: (1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; (2) is legally authorized within such State to provide a program of education beyond high school; (3) provides an educational program for which it awards a bachelor's degree; or provides not less than a 2-year program which is acceptable for full credit toward such a degree; or offers a 2-year program in engineering, mathematics, or the

physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; (4) is a public or other nonprofit institution; and (5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner.

(42 U.S.C. 2000c-2000c-9)

(e) (1) "Minority group" refers (except for purposes of §§ 180.16 and 180.26) to persons (i) who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, or Hawaiian natives, or (ii) who have been specifically determined by the Commissioner to have been segregated or separated on the basis of race, color, religion, or national origin as a result of State or local law or official action.

(2) For purposes of §§ 180.16 and 180.26, "minority group" refers to persons who have been specifically determined by the Commissioner to be from environments in which the dominant language is other than English and who, as a result of such circumstances, are not capable of effective participation in the educational process.

(42 U.S.C. 2000c-2000c-9; *Lau v. Nichols*, 414 U.S. 563 (1974))

(f) "Non-English dominant minority group" refers to persons described in § 180.02(e) (2).

(42 U.S.C. 2000c-2000c-9)

(g) "State" means one of the 50 States or the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(42 U.S.C. 2000c)

(h) "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 for such purpose.

(42 U.S.C. 2000c-2000c-9)

**§ 180.03 Applicability of Subchapter A.**

Assistance under this part is subject to applicable provisions contained in Parts 100 and (except with respect to Subpart C) 100a of this title (relating to

fiscal, administrative, property management, and other matters), except that such assistance shall not be subject to the provisions of § 100a.26(b) of Part 100a, relating to criteria for awards.

(42 U.S.C. 2000c-2000c-9)

#### **Subpart B—Technical Assistance Arrangements With State Educational Agencies**

##### **§ 180.11 Eligibility for awards.**

(a) Any State educational agency may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance, upon request, to any school board, municipally, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans, assurances, or programs for the desegregation of public schools. A proposal may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b))

(b) Technical assistance proposed to be rendered pursuant to this subpart shall consist of or include the provision of information regarding effective methods of coping with special educational problems occasioned by desegregation.

(42 U.S.C. 2000c-2)

##### **§ 180.12 Authorized activities.**

Funds made available pursuant to this subpart shall be used for the activities described in paragraph (a) of this section and for one or more of the activities described in paragraphs (b) through (i) of this section, when such activities are requested in accordance with § 180.11(a).

(a) Planning and other activities designed to insure that administrators, teachers, and other educational personnel are not demoted or dismissed on the basis of race, color, religion, sex or national origin in the process of, or as a result of, desegregation;

(b) Assessment of desegregation-related educational needs in one or more public schools;

(c) Development of administrative methods and techniques to cope with special educational problems occasioned by desegregation;

(d) Development of educational programs, materials, and methods for use in desegregated classroom situations;

(e) Training of administrators, teachers, or other public school personnel in

the implementation or use of methods, techniques, programs, and materials designed to cope with special educational problems occasioned by desegregation;

(f) Development of techniques for communications or interaction between public schools or school systems and the groups affected by the desegregation of such schools or school systems;

(g) Technical assistance to public school administrative staffs in determining the availability and appropriate utilization of funds under other Federal and State programs which would assist in coping with special educational problems occasioned by desegregation;

(h) Training of administrative staffs (in school districts which are required to desegregate their schools pursuant to a final order of a court of the United States, a State court, or a State agency or official or pursuant to a plan or assurance required by the Secretary) in efficient and educationally sound methods of assigning students to and within public schools;

(i) Any other activity which the Commissioner determines will make substantial progress toward achieving the purposes of this subpart.

(42 U.S.C. 2000c-2)

##### **§ 180.13 Proposals.**

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposal shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.12. Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-2)

(b) Proposals submitted pursuant to this subpart shall contain a listing of the school boards, municipalities, school districts, or other governmental units to which the applicant proposes to render technical assistance, the nature of such assistance expected to be rendered, and a statement as to whether the proposed recipients of such assistance are desegre-

gating their schools pursuant to an order of a court of the United States, a State court, or a State agency or official, or pursuant to a plan or assurance required by the Secretary. Such proposals shall also include copies of all requests for such assistance from such school boards, municipalities, school districts, or other governmental units, and a copy of the form to be prescribed or employed for additional requests for such assistance. Such requests, at a minimum, shall indicate the status of the requesting school board, municipality, school district, or other governmental unit with respect to desegregation and the nature of the special educational problems with respect to which technical assistance is requested, and shall be signed by the chief executive officer or other authorized representative of the requesting agency.

(42 U.S.C. 2000c-2)

(c) Proposals shall be submitted pursuant to this subpart in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-2)

#### § 180.14 Criteria for awards.

In reviewing proposals under this subpart, the Commissioner shall apply the following criteria:

(a) *Needs assessment (6 points)*. (1) The magnitude of desegregation-related educational needs assessed by the applicant with respect to school boards, municipalities, school districts, or other governmental units within the applicant's State, and (2) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

(42 U.S.C. 2000c-2)

(b) *Statement of objectives (8 points)*. The degree (1) to which the applicant sets forth specific, measurable objectives for its program, project, or activity, in relation to specifically identified educational needs, and (2) to which such objectives are realistically attainable within the limits of the project period and the available resources.

(42 U.S.C. 2000c-2)

(c) *Activities (23 points)*—(1) *Project design (13 points)*. The extent to which (i) the proposal provides for a continuing exchange of information between the applicant and the school boards, municipalities, school districts, or other governmental units proposed to be served; (ii) the proposed program,

project, or activity promises to involve a substantial proportion of the school boards, municipalities, school districts, or other governmental units within the applicant's State which could benefit from technical assistance; (iii) the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation; and (iv) the proposed services are concentrated upon classes or categories of beneficiaries which are sufficiently limited and specific to give promise of significant results;

(2) *Staffing (6 points)*. The extent to which (i) the proposal contains evidence of background, training, and experience on the part of the professional staff employed or to be employed by the applicant in coping with special educational problems occasioned by desegregation; and (ii) the professional and other staff employed or to be employed by the applicant reflects in composition the race, sex, and ethnicity of the population to be served; and

(3) *Coordination (4 points)*. The extent to which the applicant proposes to make use of other State resources and capabilities in meeting the desegregation-related needs of school boards, municipalities, school districts, and other governmental units.

(42 U.S.C. 2000c-2)

(d) *Resource management (4 points)*. The extent to which the applicant demonstrates that project costs are reasonable in relation to the expected benefits.

(42 U.S.C. 2000c-2)

(e) *Evaluation (5 points)*. The extent to which the applicant sets out a format for objectives, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (1) a timetable for compilation of data for evaluation, and (2) a method of reviewing the proposed program, project, or activity in the light of such data.

(42 U.S.C. 2000c-2)

#### § 180.15 Award procedures.

Assistance under this subpart shall be awarded to applicants according to their ranking on the basis of the criteria set forth in § 180.14, except that assistance shall be awarded separately for purposes of § 180.16. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, or which is otherwise of such insufficient promise for

achieving the purposes of this part that its approval is not warranted. No more than 25 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2)

#### § 180.16 Awards for activities to benefit non-English dominant minority group students.

(a) Any State educational agency may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance, upon request, to any school board, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption and implementation of plans or programs for the desegregation of public schools (as the term "desegregation" is defined in § 180.02(a)(2) for purposes of this section), with respect to non-English dominant minority group students (as the term "non-English dominant minority group" is defined in § 180.02(f)). Such a proposal may be submitted whether or not the applicant has submitted a proposal pursuant to §§ 180.11-15.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); *Lau v. Nichols*, 414 U.S. 563 (1974))

(b) The provisions set forth for assistance under §§ 180.11-15 (except for the second sentence of § 180.11(a) and the third sentence of § 180.15) shall apply to assistance under this section, except that:

(1) "Desegregation" and "minority group" are defined for purposes of this section as indicated in §§ 180.02 (a) (2) and 180.02(e) (2); and

(2) Funds made available under this section shall be available for the following activities in addition to those described in § 180.12:

(i) Training of teachers and other ancillary educational personnel in skills related to desegregation problems associated with providing an equal educational opportunity for non-English dominant minority group students, including cul-

tural awareness, oral and written language skills in the dominant languages of such students, and diagnostic evaluation, teaching of English as a second language, and prescriptive teaching techniques; and

(ii) Development of bilingual education programs, materials, and methods for their use in desegregated classroom situations involving non-English dominant minority group students.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(c) No more than 25 percent of the funds made available for awards pursuant to this section and § 180.26 for any fiscal year shall be awarded for programs, projects or activities to be conducted pursuant to this section, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(d) Where the dominant language in a geographical area is other than English, for purposes of this section students in that area shall be deemed to be non-English dominant minority group students if they have been specifically determined by the Commissioner to be from environments in which the dominant language is other than the dominant language in the geographical area and, as a result of such circumstances, to be not capable of effective participation in the educational process.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

#### Subpart C—General Assistance Centers

##### § 180.21 Eligibility for awards.

Any public or private agency (other than a State educational agency), including any institution of higher education, may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance (as described in § 180.11(b)), upon request, to any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans, assurances, or programs for the desegregation of public schools. Such technical assistance shall be rendered through general assistance centers serv-

ing designated service areas as described in § 180.22(b). A proposal may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b))

§ 180.22 Authorized activities.

(a) Funds made available pursuant to this subpart shall be used for one or more of the activities described in § 180.12 (a) through (i), when such activities are requested in accordance with § 180.21.

(42 U.S.C. 2000c-2)

(b) *Service areas.* (1) Activities authorized under paragraph (a) of this section shall be carried out in one of the following designated service areas, to be specified by the applicant in its proposal:

1. Maine, New Hampshire, Vermont Massachusetts, Connecticut, Rhode Island.
2. New York, New Jersey, Puerto Rico, Virgin Islands.
3. Pennsylvania, Delaware, Maryland.
4. Virginia, West Virginia, District of Columbia.
5. North Carolina.
6. South Carolina.
7. Georgia.
8. Florida.
9. Alabama.
10. Mississippi.
11. Kentucky, Tennessee.
12. Ohio.
13. Indiana.
14. Illinois.
15. Michigan.
16. Wisconsin, Minnesota.
17. Texas.
18. Louisiana.
19. Oklahoma.
20. Arkansas.
21. New Mexico.
22. Iowa, Nebraska, Kansas, Missouri.
23. North Dakota, South Dakota, Montana, Colorado, Wyoming, Utah.
24. California, Nevada, Arizona.
25. Hawaii, Guam, American Samoa, Trust Territory of the Pacific Islands.
26. Oregon, Washington, Idaho.
27. Alaska.

(2) A public or private agency entering into an arrangement pursuant to this subpart shall provide technical assistance, to the extent that financial and other resources permit, upon the request of any school board, State, municipality, school district or other governmental unit located within such agency's designated service area.

(3) No more than one award shall be made pursuant to §§ 180.21-25 for technical

assistance activities in a single designated service area, unless the Commissioner determines that the proposals pending before him for additional awards for such activities in such an area are of exceptional merit or promise, or that more than one award is necessary in order to provide for technical assistance in the area for both desegregation on the basis of race, color, religion, or national origin and desegregation on the basis of sex. Where the Commissioner determines that insufficient need exists in one or more designated service areas for a general assistance center, he may require applicants to expand their proposed activities to include more than one such area. Where the Commissioner determines that needs existing in one or more designated service areas will not be met by a general assistance center or a State educational agency, he may require applicants under this subpart to expand their proposed activities to include such areas.

(42 U.S.C. 2000c-2)

§ 180.23 Proposals.

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposal shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.22. Such proposals shall contain the information and materials described in § 180.13(b). Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-2)

(b) Proposals shall be submitted pursuant to this subpart in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-2)

(c) Awards under this subpart shall be subject to the Federal Procurement Regulations (41 CFR Chapters 1 and 3), to the extent that such regulations are

not inconsistent with the provisions of this part.

(42 U.S.C. 2000c-2)

#### § 180.24 Criteria for awards.

In reviewing proposals under this subpart, the Commissioner shall apply the following criteria:

(a) *Needs assessment (9 points)*. (1) The magnitude of desegregation-related educational needs assessed by the applicant with respect to school boards, municipalities, school districts, or other governmental units within the applicant's service area, and (2) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

(b) *Statement of objectives (12 points)*. The degree (1) to which the applicant sets forth specific, measurable objectives for its program, project, or activity, in relation to specifically identified educational needs, and (2) to which such objectives are realistically attainable within the limits of the project period and the available resources.

(c) *Activities (35 points)*—(1) *Project design (23 points)*. The extent to which (i) the proposal provides for a continuing exchange of information between the applicant and the school boards, municipalities, school districts, or other governmental units proposed to be served; (ii) the proposed program, project, or activity promises to involve a substantial proportion of the school boards, municipalities, school districts, or other governmental units within the applicant's service area which could benefit from technical assistance; (iii) the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation; and (iv) the proposed services are concentrated upon classes or categories of beneficiaries which are sufficiently limited and specific to give promise of significant results.

(2) *Staffing (12 points)*. The extent to which (i) the proposal contains evidence of background, training, and experience on the part of the professional staff employed or to be employed by the applicant in coping with special educational problems occasioned by desegregation; (ii) the professional and other staff employed or to be employed by the applicant reflects in composition the race, sex, and ethnicity of the population to be served.

(d) *Evaluation (7 points)*. The extent to which the applicant sets out a format

for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (1) a timetable for compilation of data for evaluation, and (2) a method of reviewing the proposed program, project, or activity in light of such data.

(e) *Budget (10 points)*. The degree to which (1) the proposal sets forth the lowest cost in relation to the numbers of minority group or (in the case of activities with regard to desegregation on the basis of sex) other students to be served and (2) the proposal reflects prudent and balanced use of equipment, subcontracts, travel, and other support costs.

(42 U.S.C. 2000c-2)

#### § 180.25 Award procedures.

In awarding funds under this subpart (which shall be done separately for awards provided for in § 180.26), the Commissioner shall apply the provisions of the Federal Procurement Regulations (41 CFR Chapters 1 and 3). However, he shall not be required to approve any proposal which does not meet the requirements of this part, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 50 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2)

#### § 180.26 Awards for activities to benefit non-English dominant minority group students.

(a) Any public or private agency (other than a State educational agency), including any institution of higher education, may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance (as described in § 180.11(b)), upon request, to any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans or programs for the desegregation

of public schools (as the term “desegregation” is defined in § 180.02(a)(2) for purposes of this section), with respect to non-English dominant minority group students (as the term “non-English dominant minority group” is defined in § 180.02(f)). Such technical assistance shall be rendered through general assistance centers serving designated service areas as described in paragraph (b) (3) of this section. Such a proposal may be submitted whether or not the applicant has submitted a proposal pursuant to §§ 180.21–25.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); *Lau v. Nichols*, 414 U.S.C. 563 (1974))

(b) The provisions set forth for assistance under §§ 180.21–25 (except for the third sentence of § 180.21 and the third sentence of § 180.25) shall apply to assistance under this section, except that:

(1) “Desegregation” and “minority group” are defined for purposes of this section as indicated in § 180.02(a)(2) and 180.02(e)(2);

(2) Funds made available under this section shall be available for the activities described in § 180.16(b)(2) in addition to those described in § 180.12;

(3) The following designated service areas, one of which is to be specified by each applicant in its proposal, will prevail:

- A. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Puerto Rico, Virgin Islands.
- B. Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Alabama, Mississippi, Florida.
- C. Ohio, Indiana, Illinois, Michigan, Minnesota, Wisconsin, Missouri, Kansas, Iowa, Nebraska.
- D. Texas, Louisiana, Arkansas.
- E. Montana, North Dakota, South Dakota, Wyoming, Colorado, Utah, Oklahoma.
- F. New Mexico, Arizona, Nevada.
- G. Southern California (that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties).
- H. Northern California (that part of California not included in Area G).
- I. Washington, Oregon, Idaho, Alaska, Hawaii, Guam, Trust Territory of the Pacific Islands, American Samoa.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(c) No more than 75 percent of the funds made available for awards pursuant to this section and § 180.16 for any

fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this section, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(d) Where the dominant language in a geographical area is other than English, for purposes of this section students in that area shall be deemed to be non-English dominant minority group members if they have been specifically determined by the Commissioner to be from environments in which the dominant language is other than the dominant language in the geographical area and, as a result of such circumstances, to be not capable of effective participation in the educational process.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

#### Subpart D—Training Institutes

##### § 180.31 Eligibility for assistance.

Any institution of higher education may apply for a grant pursuant to this subpart for the operation of short term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel (including school board members or trustees) to deal effectively with special educational problems occasioned by desegregation. An institute may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-3)

##### § 180.32 Authorized activities.

(a) Funds made available pursuant to this subpart shall be used for institutes for special training in one or more of the problem areas described in § 180.12 (except § 180.12 (b) and (g)). Such institutes may be held on the campus of the applicant institutions or at other locations, and shall consist of (1) summer sessions not to exceed 6 weeks in duration or (2) sessions conducted during the regular academic year.

(42 U.S.C. 2000c-3)

(b) Training shall be provided pursuant to this subpart only upon the re-



quest of a school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools.

(42 U.S.C. 2000c-3)

(c) *Stipends.* An individual who attends an institute on a full-time basis shall be paid a stipend of \$30 for each institute day of attendance up to \$150 per week. If, in the case of an institute described in paragraph (a) (2), less than five hours of training is scheduled to be provided on an institute day, the payment for such day shall be \$6 per hour, within the \$150 weekly limit. In the event that participation in an institute is interrupted or is terminated prior to completion of the institute program, stipend payment shall be made to the individual for such period as he was in attendance on a full-time basis. For purposes of this paragraph, "attendance on a full-time basis" means attendance during a period for which the individual is receiving no other compensation for such attendance or for work performed during such period, and an "institute day" means each day of a program of an institute on which at least 2 (or, in the case of an institute described in paragraph (a) (1) of this section, 5) hours of training is scheduled to be provided.

(42 U.S.C. 2000c-3)

(d) *Travel allowances.* (1) An individual who attends an institute on a full-time basis (as defined in paragraph (c) of this section) may be provided travel or an allowance for his actual cost of travel, from place of residence or employment to place of the institute, and from place of the institute to his place of residence or employment, as set forth in the institution's arrangement with the Commissioner. The allowance for travel in the case of travel by private automobile shall be at the rate of 12 cents per mile. In the case of joint travel by private automobile by a group of participants, travel allowances shall be payable only to one of such participants, but without reduction on account of contribution to him by the other participants.

(2) In addition to the limitations of paragraph (d) (1) of this section, when air, rail, or steamship transportation is used, first-class accommodations or an allowance therefor may be provided only where first-class accommodations are the only class of service for the most direct travel route, or where less than first-class accommodations result or

would result in greater cost than first-class accommodations.

(3) In the event that an individual's participation in an institute is terminated prior to his completion of the institute program, travel, or an allowance therefor, from place of the institute to his place of residence or employment may be provided only if such termination is occasioned by extraordinary circumstances not reasonably within the control of the individual.

(42 U.S.C. 2000c-3)

### § 180.33 Applications.

(a) An applicant desiring to receive assistance pursuant to this subpart for any fiscal year shall submit to the Commissioner an application for such fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use funds awarded on the basis of such application only for the activities described in § 180.32. Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of applications submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-3)

(b) Applications for assistance submitted pursuant to this subpart shall contain a listing of the school boards, States, municipalities, school districts, or other governmental units to whose teachers, supervisors, counselors, and other elementary or secondary school personnel the applicant proposes to provide special training, the nature of such training expected to be provided, and a statement as to whether such school boards, States, municipalities, school districts, or other governmental units are desegregating their schools pursuant to an order of a court of the United States, a State court, or a State agency or official or pursuant to a plan or assurance required by the Secretary. Such applications shall also include copies of all requests for such training from such school boards, States, municipalities, school districts, or other governmental units, and a copy of the form to be prescribed or employed for additional requests for such training. Such requests, at a minimum, shall indicate the status of the requesting school board, State,

municipality, school district, or other governmental unit with respect to desegregation, the number and percentage of minority group students enrolled, the nature of the special educational problems with respect to which training is requested, and the approximate number and type of personnel to be trained, and shall be signed by the chief executive officer or other authorized representative of the requesting agency.

(42 U.S.C. 2000c-3)

(c) Applications for assistance pursuant to this subpart shall be submitted in such form and at such time as the Commissioner may require.

(42 U.S.C. 2000c-3)

**§ 180.34 Criteria for assistance.**

(a) In reviewing applications under this subpart, the Commissioner shall apply the criteria set forth at § 180.14(a), (b), (c) (2), (d), and (e), except that (1) needs shall be assessed pursuant to § 180.14(a) with respect to all school boards, States, municipalities, school districts, or other governmental units which have requested training assistance, and (2) 8 points shall be awarded for the criteria set forth in § 180.14(c) (2).

(42 U.S.C. 2000c-3)

(b) *Project design (15 points)*. The Commissioner shall also apply the following criteria: the extent to which (1) The participants in the proposed institute or institutes will include persons with authority to effect substantive changes in public school policies and procedures, including school board members or trustees, superintendents, assistant superintendents, and school principals; (2) the applicant proposes to work with institute participants on a regular basis in classroom and other field situations after completion of formal training sessions; (3) the applicant sets forth specific methods or techniques for preparing institute participants to train other teachers, supervisors, counselors, and other elementary and secondary school personnel in dealing effectively with desegregation-related problems; and (4) the proposed program, project, or activity is designed to develop specific educational strategies for dealing effectively with such problems.

(42 U.S.C. 2000c-3)

**§ 180.35 Award procedures.**

Assistance under this subpart shall be awarded to applicants according to their

ranking on the basis of the criteria set forth in § 180.34, except that at least ten awards shall be made for each fiscal year for institutes of which the primary focus would be training with regard to desegregation on the basis of sex. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, does not score at least 28 points on the basis of the criteria set forth in § 180.34, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 15 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise. In determining the amount of an award under this subpart, the Commissioner may consider the desirability of using funds for other applications which warrant his approval.

(42 U.S.C. 2000c-3)

**Subpart E—Grants to School Boards**

**§ 180.41 Eligibility for assistance.**

Any school board may make application pursuant to this subpart for a grant to pay, in whole or in part, the cost of employing a specialist to advise on problems incident to desegregation, and of giving to teachers and other public school personnel inservice training in dealing with problems incident to desegregation. An application may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-4)

**§ 180.42 Authorized activities.**

Funds made available pursuant to this subpart shall be used to employ specialists as described in § 180.41 and to provide inservice training as described in § 180.41, for the purpose of advice or training in one or more of the problem areas described in § 180.12, when such advice or training is not available from other sources.

(42 U.S.C. 2000c-4)

### § 180.43 Applications.

(a) An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Commissioner an application for such fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use funds awarded on the basis of such application only for the activities described in § 180.42. Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of applications submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-4)

(b) Applications for assistance pursuant to this subpart shall indicate whether the applicant is desegregating its schools pursuant to an order of a court of the United States, a State court, or a State agency or official, or pursuant to a plan or assurance required by the Secretary, and shall describe the problems incident to desegregation to be addressed by the proposed program, project, or activity. If an application for assistance pursuant to this subpart includes a request for funds for inservice training as described in § 180.41, such application shall indicate the reasons that such training is not available from other sources.

(42 U.S.C. 2000c-4)

(c) Applications for assistance pursuant to this subpart shall be submitted in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-4)

### § 180.44 Criteria for assistance.

(a) In reviewing applications for assistance under this subpart, the Commissioner shall apply the criteria set forth in § 180.14 (b), (d), and (e). The Commissioner shall also apply the criteria set forth in paragraphs (b) and (c) of this section.

(42 U.S.C. 2000c-4)

(b) *Needs assessment (20 points)*—(1) The magnitude of desegregation-related educational needs assessed by the applicant with regard to (i) (5 points) desegregation on the basis of race, color, re-

ligion, or national origin (if assistance therefor is sought) and (ii) (5 points) desegregation on the basis of sex (if assistance therefor is sought); (2) (5 points) the degree to which the applicant has demonstrated by objective evidence the existence of such needs; and (3) (5 points) the extent to which the applicant lacks the financial and other resources necessary to meet such needs.

(42 U.S.C. 2000c-4)

(c) *Activities (23 points)*—(1) *Qualifications of specialist (8 points)*. The extent to which the application (i) contains evidence of desegregation-related background, training, and experience on the part of the person to be employed as an advisory specialist, and (ii) sets forth procedures for direct, formal consultation, on a regular basis, by such specialist with school board members and trustees and the superintendent of the affected school district concerning problems incident to desegregation;

(2) *Community involvement (7 points)*. The extent to which the application (i) reflects the participation of representatives of the communities affected by desegregation (including, as applicable, minority and non-minority group communities) in the development of the proposed program, project, or activity, and (ii) contains evidence that such representatives will participate in the implementation of the proposed program, project, or activity; and

(3) *Comprehensiveness (8 points)*. The extent to which (i) the application contains evidence that the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation, and (ii) the applicant proposes to conduct activities addressing a broad range of problem areas.

(42 U.S.C. 2000c-4)

### § 180.45 Award procedures.

Assistance under this subpart shall be awarded to applicants according to their ranking on the basis of the criteria set forth in § 180.44. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 10 percent of the funds made available pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be

awarded for: programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-4)

**PART 181—EMERGENCY SCHOOL ASSISTANCE PROGRAM**

**Sec.**

- 181.1 Definitions.
- 181.2 Purpose.
- 181.3 Eligibility.
- 181.4 Authorized activities.
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- 181.9 Evaluation.
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- 181.11 Review by State educational agency.
- 181.12 Non-Federal contributions.
- 181.15 Termination.

**Appendix B—Memorandum of Understanding Between The Office of Economic Opportunity and The Department of Health, Education and Welfare.**

**AUTHORITY:** The provisions of this Part 181 issued under 20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837, unless otherwise noted.

**SOURCE:** The provisions of this Part 181 appear at 36 FR 16546, Aug. 21, 1971, unless otherwise noted.

**§ 181.1 Definitions.**

As used in this part:

(a) [Reserved]

(b) The term "desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" does not mean the assignment of students to public schools in order to overcome racial imbalance. (42 U.S.C. 2000c)

(c) The term "local educational agency" means a public board of education or other public authority legally constituted within a State either for 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 are recognized in a State as an administrative agency for its public elementary or

secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. (20 U.S.C. 881)

(d) The term "minority group" with reference to any person or persons, means a person or persons of Negro, American-Indian, Spanish-surnamed American, or Oriental ancestry.

(e) [Reserved]

(f) The term "person" includes an individual, group, organization, corporation, association, or other entity.

(g) The term "property" includes real or personal property. (Public Law 91-380)

(h) [Reserved]

(i) The term "transfer" in relation to property (or services) includes the gift, lease, or sale of such property or services (Public Law 91-380)

[36 FR 16546, Aug. 21, 1971, as amended at 38 FR 30661, Nov. 6, 1973]

**§ 181.2 Purpose.**

The purpose of the emergency assistance to be made available under the program described in this part is to meet special needs during the 1971-72 academic year incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools by contributing to the costs of new or expanded activities to be carried out by local educational agencies or other agencies organizations, or institutions and designed to achieve successful desegregation and the elimination of all forms of discrimination in the schools on the basis of race, color, religion, or national origin.

**§ 181.3 Eligibility.**

(a) (1) Assistance under the program may be made available to a local educational agency which is implementing a plan for the desegregation of its schools, which plan (i) has been undertaken pursuant to a final order of a court of the United States or of any State, or of a State administrative agency of competent jurisdiction, issued or modified on or after April 20, 1971, pursuant to constitutional requirements as set forth by the U.S. Supreme Court in "Swann v. Charlotte-Mecklenburg Board of Education," and its companion cases, or (ii) has been approved by the Secretary, on or after such date as adequate