

DEPARTMENT OF EDUCATION**34 CFR Part 535**

RIN 1885-AA21

Bilingual Education: Graduate Fellowship Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to adopt these regulations and to add a new Part 535 for the Bilingual Education: Graduate Fellowship Program which is authorized by section 7145 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (the Act). The Bilingual Education: Graduate Fellowship Program replaces the existing Bilingual Education Fellowship Program, and expands the program to include post-doctoral fellowships.

DATES: Comments must be received on or before December 11, 1995.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Joyce Brown, U.S. Department of Education, 600 Independence Avenue, SW., Room 5086, Switzer Building, Washington, D.C. 20202-6510. Comments may also be sent through the Internet to "Graduate_Fellowship@ed.gov".

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in this preamble under the heading *Paperwork Reduction Act of 1995*. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT:

Joyce Brown, U.S. Department of Education, 600 Independence Avenue, SW., Room 5086, Switzer Building, Washington, D.C. 20202-6510. Telephone: (202) 205-9727. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These regulations would implement statutory changes made when the program was reauthorized by the Improving America's Schools Act of 1994 (Pub. L. 103-382, enacted October 20, 1994). These proposed regulations have been reviewed and revised in accordance with the Department's "Principles for Regulating," which were developed to ensure that the Department regulates in

the most flexible, most equitable, and least burdensome way possible. These principles advance the regulatory reinvention and customer service objectives of the Administration's National Performance Review II and are essential to an effective partnership with educational institutions. The Secretary proposes these regulations because he believes the regulations are necessary to implement the law and reflect the greatest flexibility and least burden possible.

The Secretary held six regional meetings from June 15 through June 29, 1994 in Chicago, Los Angeles, Miami, New York, San Antonio, and Seattle. The purpose of these meetings was to obtain public input on issues relevant to the development of new regulations for title VII programs. The discussions at the meetings focused on ways that the regulations could address educational reform, staff development, standards and assessments, and relationships among the school, family, community, and State.

The Bilingual Education: Graduate Fellowship Program addresses the National Education Goal that relates to professional development for educators.

The following is a summary of the provisions the Secretary believes are necessary for implementing the statute. The summary does not address regulatory provisions that merely restate statutory language.

Section 535.2 Eligibility

The statute does not specifically address the issue of who is eligible to apply for a fellowship or how the distribution of funds should be accomplished. Section 535.2 of the regulations would define an eligible participant as an institution of higher education (IHE). Individuals would be able to apply for fellowships through IHEs that have been approved for participation under this program. Under §§ 535.10-535.23 IHEs would compete to be able to nominate individuals for fellowships. Through this structure individuals would receive fellowships under this program and IHEs would serve as conduits for the funds. This is the procedure currently followed under the program.

Section 535.3 Financial Assistance

Section 7148 of the Act authorizes the Secretary to provide stipends, in amounts he determines to be appropriate, to persons participating in training programs.

Under these regulations, the Secretary proposes to allow, for master's and doctoral fellowship recipients, stipends of up to \$500 per month plus costs for

tuition and fees, books, and travel related to clinical experience or to practice teaching. Because of rising costs, the Secretary proposes to raise the maximum amounts provided from the amounts provided under the previous Fellowship Program.

For post-doctoral program fellowship recipients the Secretary proposes to allow stipends of up to \$40,000 and up to \$5,000 for publications, research and scholarly materials, research-related travel and fees. The Secretary believes that these stipend amounts are adequate to defray the costs a fellowship recipient may incur while participating in the program.

Subparts B and C—Application Procedures and Evaluation of Applications

The statute does not prescribe how the Secretary will evaluate an application. The proposed regulations provide that in order to participate in this program, an IHE must submit to the Secretary an application that responds to the selection criteria in either § 535.20 or § 535.21, as appropriate.

The Secretary proposes to evaluate an IHE application by awarding points based on the appropriate selection criteria and then, as described in §§ 535.20(e) and 535.22(e), to determine the maximum number of fellowships that may be awarded at each IHE.

Section 535.30 Fellowship application, Section 535.40 Selection of Fellows; Section 535.41 IHE Nominees

The statute does not specify minimum qualifications a Fellow must have. The proposed regulations require that individuals apply for fellowships through IHEs that have been approved for participation under §§ 535.20 and 535.22. The regulations propose that an IHE may only nominate individuals for fellowships who (1) are proficient in English and, if applicable, another language; (2) have experience in providing services to, teaching in, or administering programs for LEP individuals; (3) are planning to serve LEP individuals after completion of their studies; (4) are eligible to receive assistance under 34 CFR 75.60 and 75.61; and (5) are citizens, nationals, or permanent residents of the United States.

In addition, the regulations propose that an IHE may only nominate for a master's or doctoral fellowship individuals who (1) have been accepted for enrollment as full-time students in the IHE; and (2) have an excellent academic record. The proposed regulations provide that an IHE may only nominate for post-doctoral study

fellowships individuals who have doctoral degrees in relevant disciplines that qualify those individuals to conduct independent research on educational programs and policies for LEP individuals.

The Secretary proposes to restrict an IHE to nominees who meet these requirements to ensure that Fellows will be highly qualified. These requirements address the desire to provide fellowships to those applicants who already have advanced language training, have a demonstrated commitment to providing services to LEP individuals, and will be able to complete quickly their program of study and begin providing services to LEP individuals.

Section 535.50 Service Requirement

Under section 7145(b) of the Act, a fellowship recipient must agree to work in an activity for a period of time equivalent to the period of time during which the fellowship recipient receives assistance. To ensure that the intent of the program is met by the Fellows and that an activity is related to the program or authorized under part A of title VII of the Act, the proposed regulations would require that the activity be approved by the Secretary.

The proposed regulations provide that the recipient of a master's or doctoral fellowship must begin working in these activities within six months of the date on which the fellow is no longer enrolled as a full-time student. In the case of a post-doctoral fellowship, the regulations proposed that the recipient must begin working in these activities within six months of the date on which the project period in the approved area of study ends. The Secretary believes that within six months after completion of the training, a fellow should be able to find appropriate employment in a program for LEP children and youth.

Section 535.51 Repayment; Section 535.52 Repayment schedule; Section 535.53 Interest; Section 535.54 Deferment; Section 535.56 Waiver

Under section 7145(b) of the Act, if a fellowship recipient does not meet the service requirement, the fellowship recipient must follow procedures for repayment. The proposed regulations provide the following rules and procedures regarding repayment by recipients who are not meeting the service requirement:

(1) The Secretary would prorate the amount of repayment based on the length of time that the fellowship recipient worked in an authorized activity.

(2) A master's or doctoral fellowship recipient would be required to begin repaying the fellowship amount plus interest within six months of the date when the fellow is no longer a full-time student. Post-doctoral fellows would be required to begin repaying the fellowship amount plus interest within six months of the date when the fellow's project period ends.

(3) The fellowship recipient would be able to pay in full or in installments as approved by the Secretary.

In certain circumstances, the Secretary proposes to defer repayment. Under section 7145(b) of the Act, the Secretary may waive repayment in extraordinary circumstances.

The Secretary believes that these procedures regarding repayment are necessary to inform individuals of their rights and obligations regarding repayment. These procedures would help to ensure that funds are used to carry out the purposes of this program.

Executive Order 12866

1. Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995*.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective an efficient administration of the program.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 535.1 *What is the Bilingual Education: Graduate Fellowship Program?*) (4) Is the description of the regulations in the "Supplementary Information" section of this preamble helpful in understanding the regulations? How could this description be more helpful in making the regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Ave., SW., Room 5121, FB10, Washington, D.C. 20202-2110.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations would affect individuals. Individuals, however, are not defined as "small entities" in the Regulatory Flexibility Act.

The small entities that would be affected by these proposed regulations are IHEs receiving Federal funds under this program. The proposed regulations, however, would not have a significant economic impact on the entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to create a system for disbursing funds to individual fellows through IHEs and to ensure the proper accounting for expenditures of program funds.

Paperwork Reduction Act of 1995

Sections 535.21, 535.23, 535.40, 535.50 and 535.57 contain information

collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Bilingual Education—Graduate Fellowship Program.

These regulations affect IHEs eligible for participation and individuals eligible for grants under this program. Sections 535.21, 535.23 and 535.40 require IHEs to provide information in their applications that the Department needs and uses to select IHEs for participation and to make awards. Sections 535.50 and 535.57 require individuals to provide information demonstrating compliance with the terms of the program. The Department needs and uses the information it collects from the fellowship recipients to collect funds possibly owed to the Department. Information from IHEs regarding approval for participation is to be collected once every three years and all other information is to be collected and reported once per year. Annual public reporting burden for the collection of information is as follows:

1. Sections 535.21, 535.23 and 535.40 are estimated to average 35 hours per response for 25 respondents.

2. Sections 535.50 and 535.57 are estimated to average 36 minutes per response for 400 respondents.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Wendy Taylor, Desk Officer for U.S. Department of Education.

The Department considers comments by the public on these proposed collections of information in—

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

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 5630, Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 535

Bilingual education, Education, Educational research, Reporting and recordkeeping requirements, Scholarships and fellowships, Teachers.

(Catalog of Federal Domestic Assistance Number 84.195C Bilingual Education: Graduate Fellowship Program.)

Dated: October 31, 1995.

Dang T. Pham,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 535 to read as follows:

PART 535—BILINGUAL EDUCATION: GRADUATE FELLOWSHIP PROGRAM

Subpart A—General

Sec.

535.1 What is the Bilingual Education: Graduate Fellowship Program?

535.2 Who is eligible to participate in this program?

535.3 What financial assistance is available for fellowship recipients?

535.4 What regulations apply?

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Subpart B—How Does an IHE Apply to Participate in the Program?

535.10 How does an IHE apply to participate in the program?

535.11 What assurance must an application contain?

535.12 In what circumstances may an IHE waive the training practicum requirement?

Subpart C—How Does the Secretary Approve an IHE's Participation?

535.20 How does the Secretary evaluate an application to participate in this program for master's and doctoral level fellowships?

535.21 What selection criteria does the Secretary use?

535.22 How does the Secretary evaluate an application to participate in this program for post-doctoral study fellowships?

535.23 What selection criteria does the Secretary use?

Subpart D—How Does an Individual Apply for a Fellowship?

535.30 How does an individual apply for a fellowship?

Subpart E—How Are Fellows Selected?

535.40 How does the Secretary select Fellows?

535.41 Who may an IHE nominate for fellowships?

535.42 What is the period of a fellowship?

Subpart F—What Conditions Must Be Met by Fellows?

535.50 What is the service requirement for a fellowship?

535.51 What are the requirements for repayment of the fellowship?

535.52 What is the repayment schedule?

535.53 What is the rule regarding interest?

535.54 Under what circumstances is repayment deferred?

535.55 What is the length of the deferment of repayment?

535.56 Under what circumstances is repayment waived?

535.57 How shall the fellowship recipient account for the obligation?

Authority: 20 U.S.C. 7475, unless otherwise noted.

Subpart A—General

§ 535.1 What is the Bilingual Education: Graduate Fellowship Program?

The Bilingual Education: Graduate Fellowship Program provides financial assistance, through institutions of

higher education (IHEs), to individuals who are pursuing master's, doctoral, or post-doctoral study related to instruction of limited English proficient (LEP) children and youth in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to this study.

(Authority: 20 U.S.C. 7475(a)(1))

§ 535.2 Who is eligible to participate in this Program?

(a) An IHE is eligible to participate in this program.

(b) An individual who meets the eligibility requirements under § 535.41 may apply for a fellowship through an IHE participating in this program.

(Authority: 20 U.S.C. 7475)

§ 535.3 What financial assistance is available for fellowship recipients?

(a) The Secretary may authorize the following financial assistance to master's and doctoral program fellowship recipients:

(1) Tuition and fees—the usual costs associated with the course of study.

(2) Books—up to \$300.

(3) Travel—up to \$250 for travel related to practice teaching or clinical experience.

(4) A stipend of up to \$500 per month, including allowances for subsistence and other expenses for a participant and his or her dependents, if the participant is—

(i) A full-time student in a program of study that was in the approved application; and

(ii) Gainfully employed no more than 20 hours a week or the annual equivalent of 1040 hours.

(b) The Secretary may authorize the following financial assistance to post-doctoral fellowship recipients:

(1) A stipend of up to \$40,000 per year.

(2) Publications, research and scholarly materials, research-related travel, and fees—up to \$5,000.

(c) In authorizing assistance to fellowship recipients under paragraphs (a) and (b) of this section, the Secretary considers the amount of other financial compensation that the fellowship recipients receive during the training period.

(Authority: 20 U.S.C. 7478)

§ 535.4 What regulations apply?

The following regulations apply to this program:

(a) 34 CFR 75.51, 75.60–62.

(b) 34 CFR Part 77.

(c) 34 CFR Part 85.

(d) The regulations in this Part 535.

(Authority: 20 U.S.C. 7475)

§ 535.5 What definitions apply?

(a) *Definitions in the Act.* (1) The following terms used in this part are defined in section 7501 of the Act:

Bilingual education program
Children and youth
Limited English proficiency
Native Hawaiian or Native American Pacific Islander Native language educational organization
Office
Other programs for persons of limited-English proficiency

(2) The following terms used in this part are defined in section 7104 of the Act:

Indian tribe
Tribally sanctioned educational authority

(3) The following terms used in this part are defined in section 14101 of the Act:

Institution of higher education
Local educational agency (LEA)

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

Applicant
Application
Award
Department
EDGAR
Fiscal year
Project
Recipient
Secretary
State
State educational agency (SEA)

(c) *Program definition.* The following definition also applies to a term used in this part:

Act means the Elementary and Secondary Education Act of 1965, as amended.

(Authority: 20 U.S.C. 7475–7480)

Subpart B—How Does an IHE Apply to Participate in the Program?

§ 535.10 How does an IHE apply to participate in the program?

To apply for participation under this part, an IHE must submit an application to the Secretary that—

(a) Responds to the appropriate selection criteria in §§ 535.21 and 535.23; and

(b) Requests a specific number of fellowships to be awarded in each proposed language or other curriculum group for the fellowship period specified in § 535.42.

(Authority: 20 U.S.C. 7475)

§ 535.11 What assurance must an application contain?

An application that proposes to train master's- or doctoral-level students with

funds received under this part must provide an assurance that the program will include a training practicum in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(A))

§ 535.12 In what circumstances may an IHE waive the training practicum requirement?

An IHE participating under this program may waive the requirement in § 535.11 for a training practicum for a master's or doctoral degree candidate who has had at least one academic year of experience in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(B))

Subpart C—How Does the Secretary Approve an IHE's Participation?

§ 535.20 How does the Secretary evaluate an application to participate in this program for master's and doctoral level fellowships?

(a) The Secretary evaluates an application to participate in this program for master's and doctoral-level fellowships on the basis of the criteria in § 535.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated under § 535.21, the Secretary rank-orders the applications.

(e) The Secretary then determines the maximum number of fellowships by language or other curriculum group that may be awarded at each IHE—

(1) Based on the IHE's capacity to provide graduate training in the areas proposed for fellowship recipients; and

(2) To the extent feasible, in proportion to the need for individuals with master's and doctoral degrees in the areas of training proposed by the IHE.

(Authority: 20 U.S.C. 7475)

§ 535.21 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for master's and doctoral level fellowships:

(a) *Institutional commitment.* (25 points) The Secretary reviews each application to determine the quality of the institution's graduate program of study, including consideration of—

(1) The extent to which the program has been adopted as a permanent graduate program of study;

(2) The organizational placement of the program of study;

(3) The staff and resources that the IHE has committed to the program;

(4) The IHE's demonstrated competence and experience in programs and activities such as those authorized under the Act;

(5) The IHE's demonstrated experience in assisting fellowship recipients to find employment in the field of bilingual education; and

(6) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of accomplishments under that previous project.

(b) *Quality of the graduate academic program.* (20 points) The Secretary reviews each application to determine the quality of the graduate program of study for which approval is sought, including—

(1) The course offerings and academic requirements for the graduate program;

(2) The availability of related course offerings through other schools or departments within the IHE;

(3) The IHE's focus and capacity for research;

(4) The quality of the standards used to determine satisfactory progress in, and completion of, the program;

(5) The extent to which the program of study prepares Fellows to improve the academic achievement of LEP children and youth; and

(6) In the case of a program designed to prepare trainers of educational personnel for programs of bilingual instruction, the extent to which the program incorporates the use of English and another language to develop the Fellows' competencies as trainers of bilingual educational personnel.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty to be used in the program of study, including the extent to which their background, education, research interests, and relevant experience qualify them to plan and implement a successful program of high academic quality related to instruction of LEP children and youth.

(d) *Field-based experience.* (15 points) The Secretary reviews each application to determine the extent to which the program of study provides field-based experience through arrangements with LEAs, SEAs, or persons or organizations with expertise in programs for LEP children and youth.

(e) *Evidence of local or national need.* (10 points) The Secretary reviews each application to determine the need for more individuals trained, at the graduate level, in the area of study proposed by the applicant.

(f) *Recruitment plan.* (10 points) The Secretary reviews each application to determine the quality of the applicant's plan for recruitment and nomination of students.

(Authority: 20 U.S.C. 7475, 7547)

§ 535.22 How does the Secretary evaluate an application to participate in this program for post-doctoral study fellowships?

(a) The Secretary evaluates an application to participate in this program for post-doctoral study fellowships on the basis of the criteria in § 535.23.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated according to the selection criteria, the Secretary ranks the applications.

(e) The Secretary designates the maximum number of fellowships that may be awarded at each IHE based on the factors in § 535.23(a), (c), and (d).

(Authority: 20 U.S.C. 7475)

§ 535.23 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for post-doctoral level fellowships:

(a) *Institutional commitment.* (35 points) The Secretary reviews each application to determine the overall strength of the applicant's commitment to meeting the educational needs of LEP children and youth, including consideration of—

(1) The IHE's demonstrated competence and experience in programs and research activities such as those authorized under subpart 2 of part A of title VII of the Act;

(2) The extent to which the IHE's research environment is supportive of the success of post-doctoral Fellows in their research;

(3) The IHE's demonstrated experience in assisting fellowship recipients to find employment in the field of bilingual education;

(4) The IHE's procedures for the dissemination and utilization of research findings; and

(5) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of accomplishments under that previous project.

(b) *Proposed areas of research.* (35 points) The Secretary reviews each application to determine to what extent—

(1) There is a clear description of the areas of research proposed to be undertaken by the post-doctoral Fellows;

(2) The research to be undertaken by the post-doctoral Fellows is likely to produce new and useful information;

(3) The areas of proposed research relate to the educational needs of LEP children and youth and of the educational personnel that serve that population;

(4) The outcomes of the research and study are likely to benefit the defined target population by improving the academic achievement of LEP children and youth;

(5) The data collection and the data analysis plans are sound; and

(6) A project period for completion of the study, consistent with period of availability of post-doctoral fellowships in § 535.42, is specified.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty likely to assist, guide or mentor post-doctoral Fellows, including the extent to which the faculty's background, education, research interests, and relevant experiences qualify them to support high-quality research and study performed by post-doctoral Fellows.

(d) *Adequacy of resources.* (10 points) The Secretary reviews each application to determine to what extent—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative and other necessary support is evident.

(Authority: 20 U.S.C. 7475)

Subpart D—How Does an Individual Apply for a Fellowship?

§ 535.30 How does an individual apply for a fellowship?

(a) An individual shall submit an application for a fellowship to an IHE that has been approved for participation under § 535.20 or § 535.22.

(b) Each participating IHE may establish procedures for receipt of applications from individuals.

(Authority: 20 U.S.C. 7475)

Subpart E—How Are Fellows Selected?

§ 535.40 How does the Secretary select Fellows?

(a)(1) A participating IHE shall submit names of nominees to the Secretary.

(2) If the IHE has more than one nominee, the IHE shall rank the

nominees in order of preference to receive a fellowship.

(b) The Secretary selects new Fellows according to the rank order prepared by the IHE, subject to the maximum number of fellowships designated for that IHE under § 535.20 and § 535.22.

(Authority: 20 U.S.C. 7475)

§ 535.41 Who may an IHE nominate for fellowships?

(a) In nominating individuals to receive master's and doctoral level fellowships, an IHE shall only nominate individuals who—

(1) Have been accepted for enrollment as full-time students in an approved course of study offered by the IHE;

(2) Have an excellent academic record;

(3) Are proficient in English and, if applicable, another language;

(4) Have experience in providing services to, teaching in, or administering programs for LEP children and youth;

(5) Are planning to enter or return to a career in service to LEP children and youth after completion of their studies;

(6) Are eligible to receive assistance under 34 CFR 75.60 and 75.61; and

(7)(i) Are citizens, nationals, or permanent residents of the United States;

(ii) Are in the United States for other than temporary purposes and can provide evidence from the Immigration and Naturalization Service of their intent to become permanent residents; or

(iii) Are permanent residents of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

(b) In nominating individuals to receive post-doctoral fellowships, an IHE shall only nominate individuals who—

(1) Have doctoral degrees in relevant disciplines that qualify those individuals to conduct independent research on educational programs and policies for LEP children and youth; and
(2) Meet the criteria in paragraphs (a) (3) through (7) of this section.

(Authority: 20 U.S.C. 7475)

§ 535.42 What is the period of a fellowship?

(a) Except as provided in paragraph (b) of this section, the Secretary may award a fellowship—

(1) For a maximum of two one-year periods to an individual who maintains satisfactory progress in a master's or post-doctoral program of study; and

(2) For a maximum of three one-year periods to an individual who maintains

satisfactory progress in a doctoral program of study.

(b) Subject to the availability of funds and if an IHE provides adequate justification, the Secretary may extend a fellowship beyond the maximum period to a master's or doctoral Fellow who, for circumstances beyond the Fellow's control, is unable to complete the program of study in that period.

(c) A fellowship recipient who seeks assistance beyond the initial one-year period must be renominated by the participating IHE.

(d) The Secretary may give preference to fellowship recipients in their second or third year who maintain satisfactory progress in the program of study prior to approving nominations of new Fellows.

(Authority: 20 U.S.C. 7475)

Subpart F—What Conditions Must Be Met by Fellows?

§ 535.50 What is the service requirement for a fellowship?

(a) Upon selection for a fellowship, a Fellow shall sign an agreement, provided by the Secretary, to work for a period equivalent to the period of time that the Fellow receives assistance under the fellowship in an activity—

(1) (i) Related to the program; or

(ii) Authorized under part A of title VII of the Act; and

(2) Approved by the Secretary.

(b) A fellowship recipient shall begin working in an activity specified in paragraph (a) of this section within six months of the date from which—

(1) The master's or doctoral recipient ceases to be enrolled at an IHE as a full-time student; or

(2) The post-doctoral recipient completes the project period in the approved program of study.

(Authority: 20 U.S.C. 7475(b))

§ 535.51 What are the requirements for repayment of the fellowship?

(a) A fellowship recipient who does not work in an activity described in § 535.50 shall repay the full amount of the fellowship.

(b) The Secretary prorates the amount a fellowship recipient is required to repay based on the length of time the fellowship recipient worked in an authorized activity compared with the length of time the fellowship recipient received assistance.

(Authority: 20 U.S.C. 7475(b))

§ 535.52 What is the repayment schedule?

(a) A fellowship recipient required to repay all or part of the amount of the fellowship shall begin repayments—

(1) Within six months of the date the fellowship recipient meets the criteria in § 535.50(b) (1) or (2); or

(2) On a date and in a manner established by the Secretary, if the fellowship recipient ceases to work in an authorized activity.

(b) A fellowship recipient must repay the required amount, including interest, in a lump sum or installment payments approved by the Secretary.

(c) The repayment period may be extended if the Secretary grants a deferment under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.53 What is the rule regarding interest?

(a) In accordance with 31 U.S.C. 3717, the Secretary charges a fellowship recipient interest on the unpaid balance that the fellowship recipient owes.

(b) No interest is charged for the period of time—

(1) That precedes the date on which the fellowship recipient is required to commence repayment; or

(2) During which repayment has been deferred under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.54 Under what circumstances is repayment deferred?

The Secretary may defer repayment if the fellowship recipient—

(a) Suffers from a serious physical or mental disability that prevents or substantially impairs the fellowship recipient's employability in an activity described in § 535.50;

(b) Demonstrates to the Secretary's satisfaction that the fellowship recipient is conscientiously seeking but unable to secure employment in an activity described in § 535.50;

(c) In the case of a master's or doctoral fellowship recipient, re-enrolls as a full-time student at an IHE;

(d) Is a member of the Armed Forces of the United States on active duty;

(e) Is in service as a volunteer under the Peace Corps Act; or

(f) Demonstrates to the Secretary's satisfaction that the existence of extraordinary circumstances prevents the fellowship recipient from making a scheduled payment.

(Authority: 20 U.S.C. 7475(b))

§ 535.55 What is the length of the deferment of repayment?

(a) Unless the Secretary determines otherwise, a fellowship recipient shall apply to renew a deferment on a yearly basis.

(b) Deferments for military or Peace Corps service may not exceed three years.

(Authority: 20 U.S.C. 7475(b))

§ 535.56 Under what circumstances is repayment waived?

The Secretary may waive repayment if the fellowship recipient demonstrates the existence of extraordinary circumstances that justify a waiver.

(Authority: 20 U.S.C. 7475(b)(2))

§ 535.57 How shall the fellowship recipient account for the obligation?

(a) Within six months of the date a fellowship recipient meets the criteria in § 535.50(b) (1) or (2), the fellowship recipient shall submit to the Secretary one of the following items:

(1) A description of the activity in which the fellowship recipient is employed.

(2) Repayment required under §§ 535.51 and 535.52.

(3) A request to repay the obligation in installments.

(4) A request for a deferment or waiver as described in §§ 535.54 and 535.56 accompanied by a statement of justification.

(b) A fellowship recipient who submits a description of employment under paragraph (a)(1) of this section shall notify the Secretary on a yearly basis of the period of time during the preceding year that the fellowship recipient was employed in the activity.

(c) A fellowship recipient shall inform the Secretary of any change in employment status.

(d) A fellowship recipient shall inform the Secretary of any change of address.

(e)(1) A fellowship recipient's failure to timely satisfy the requirements in paragraphs (b) through (d) of this section shall result in the fellowship recipient being in non-compliance or default status subject to collection action.

(2) Interest and costs of collection may be collected in accordance with 31 U.S.C. 3717 and 34 CFR Part 30.

(Authority: 20 U.S.C. 7475(b))

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