

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

[BOP-1013-F]

RIN 1120-AA19

Mandatory English-as-a-Second Language Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document finalizes interim rules pertaining to statutory mandatory functional literacy requirements. The functional literacy requirements provide that inmates who are not proficient in English must participate in an English-as-a-Second-Language (ESL) program until they function at the eighth grade level on a nationally recognized achievement test. This amendment is intended to allocate Bureau resources designed to assist inmates who are not functionally literate in English.

EFFECTIVE DATE: July 24, 1997.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is finalizing interim regulations for its Mandatory English-as-a-Second-Language (ESL) program. Mandatory functional literacy requirements contained in 18 U.S.C. 3624(f) require non-English speaking inmates to participate in an ESL program until they function at an eighth grade level on a nationally recognized educational achievement test. The Bureau's interim regulations

implemented the statutory requirements by requiring qualified federal inmates to participate in an ESL program unless the Warden has excused the inmate for good cause. The regulations also included a provision for incentives to help effectuate inmate motivation and success. In addition, this rule included procedures to identify inmates who qualify for the program and recordkeeping requirements to monitor inmate progress.

The Bureau received no comment on the interim regulations. In adopting the interim regulations as final, the Bureau does wish to make one administrative change. The Bureau is restating the time frame for minimum required participation in terms of instructional hours, with 240 instructional hours being the equivalent of 120 calendar days. Paragraph (d) of § 544.42 has been revised accordingly.

Members of the public may submit further comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons certifies that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 544

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, the interim rule amending 28 CFR part 544 which was published at 59 FR 14724 on March 29, 1994, is adopted as a final rule with the following change.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

1. The authority citation for 28 CFR part 544 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. In § 544.42, paragraph (d) is revised to read as follows:

§ 544.42 Procedures.

* * * * *

(d) Ordinarily, there will be no time limit for completion of the ESL mandatory program. However, after 240 instructional hours of continuous enrollment in an ESL program, excluding sick time, furloughs, and other excused absences from scheduled classes, the Warden shall have the authority to grant a waiver from further program participation. This waiver may be granted when it is determined that the inmate will not benefit from further instruction. Each exemption determination shall be made on an individual basis and shall be supported by documentation.

[FR Doc. 97-19520 Filed 7-23-97; 8:45 am]

BILLING CODE 4410-05-P