

L. Executive Order 13211

Executive Order 13211 is not relevant to this Final Rule because the rule will not have a significant adverse effect on the supply, distribution, or use of energy.

M. Plain Language

The Department drafted this rule in plain language.

List of Subjects in 20 CFR Part 641

Aged, Employment, Government contracts, Grant programs—Labor, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Department of Labor amends 20 CFR part 641 as follows:

PART 641—PROVISIONS GOVERNING THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

■ 1. The authority citation for part 641 continues to read as follows:

Authority: 42 U.S.C. 3056 *et seq.*

■ 2. Amend § 641.140 by revising the definition of “additional indicators” and adding the definition of “volunteer work” to read as follows:

§ 641.140 What definitions apply to this part?

* * * * *

Additional indicators mean retention in unsubsidized employment for 1 year; satisfaction of participants, employers and their host agencies with their experiences and the services provided; entry into volunteer work; and any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance. (OAA § 513(b)(2)).

* * * * *

Volunteer work means:

(1) For purposes of § 641.140 of this part, activities or work that former participants perform for a public agency of a State, local government or intergovernmental agency, or for a charity or not-for-profit organization, including faith-based or community-based organizations, for civic, charitable, or for humanitarian reasons, and without promise, expectation, or receipt of compensation;

(2) For informational reporting purposes, volunteer work also can include similar activities that a former participant performs on his or her own that are not conducted through a formal organization or agency as long as those activities are not performed for a member of the former participant's family or of the individual's own household. These types of volunteer

activities will not be included in the calculation of the “entry into volunteer work” indicator under § 641.140.

* * * * *

■ 3. Amend § 641.700 by adding paragraph (c)(4) to read as follows:

§ 641.700 What performance measures/indicators apply to SCSEP grantees?

* * * * *

(c) * * *

(4) The Secretary has designated entry into volunteer work as an additional indicator.

* * * * *

■ 4. Amend § 641.710 by adding paragraph (b)(3) to read as follows:

§ 641.710 How are the performance indicators defined?

* * * * *

(b) * * *

(3) “Entry into volunteer work” is defined by the formula: Of those not engaged in volunteer work at the time of entry into the SCSEP, the number of such participants who perform volunteer work in the first quarter after the exit quarter, divided by the number of such participants who exit during the quarter.

Signed at Washington, DC, this 18th day of January 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–1324 Filed 1–30–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL LABOR RELATIONS BOARD**29 CFR Part 102****Revisions of Regulations Concerning Procedures for Filing Initial FOIA Requests**

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB or Board) is amending regulations concerning the procedures for filing initial Freedom of Information Act (FOIA) requests. The revisions require that all FOIA requests for records located in Washington, DC, be made to the NLRB FOIA Officer in Washington, DC.

DATES: *Effective date:* January 31, 2012.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Executive Secretary, National Labor Relations Board, Room 1600, 1099 14th Street NW., Washington, DC 20570–0001,

Telephone (202) 273–1067 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD), email address *Lester.Heltzer@nlrb.gov*.

SUPPLEMENTARY INFORMATION:**I. Current Regulation**

Section 102.117(c)(1) provides in part that “If the request is made for records in a Regional or Subregional Office of the Agency, it should be made to that Regional or Subregional Office; if for records in the Office of the General Counsel and located in Washington, DC, it should be made to the Freedom of Information Officer, Office of the General Counsel, Washington, DC; if for records in the offices of the Board or the Inspector General in Washington, DC, to the Executive Secretary of the Board, Washington, DC.”

II. Revision

FOIA requesters seeking records that are located in Washington, DC may not know whether the requested records are in the Office of the General Counsel, the Offices of the Board, or the Office of the Inspector General, and, accordingly, may misdirect the request. Currently, when a request is misdirected, the receiving office forwards it to the appropriate office and notifies the requester that it has done so. This requires a response by both the receiving and the appropriate offices, and delays the final response to the FOIA requester. By requiring that all requests for records located in Washington, DC be made to the NLRB FOIA Officer, a newly-created position, requesters need not know in which office the records they seek are located, and their requests will be processed more efficiently and expeditiously.

III. Administrative Procedure Act

Because the change involves rules of agency organization, procedure, or practice, the Agency is not required to publish it for comment under Section 553 of the Administrative Procedure Act (5 U.S.C. 553).

IV. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these changes will not have a significant economic impact on small business entities since the changes make it easier for all FOIA requesters to file their requests.

V. Small Business Regulatory Enforcement Fairness Act

Because the rules relate to Agency procedure and practice and merely modify the Agency's existing procedures, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

VI. Paperwork Reduction Act

This revision does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, the NLRB amends 29 CFR part 102 as follows:

PART 102—RULES AND REGULATIONS

■ 1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended ((29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

■ 2. Amend § 102.117 by revising paragraphs (c)(1) and (c)(2)(iii) and (v) to read as follows:

§ 102.117 Freedom of Information Act Regulations: Board materials and formal documents available for public inspection and copying; requests for described records; time limit for response; appeal from denial of request; fees for document search and duplication; files and records not subject to inspection.

* * * * *

(c)(1) Requests for the inspection and copying of records other than those specified in paragraphs (a) and (b) of this section must be in writing and must reasonably describe the record in a manner to permit its identification and location. The envelope and the letter, or the cover sheet of any fax transmittal, should be clearly marked to indicate that it contains a request for records under the Freedom of Information Act (FOIA). The request must contain a specific statement assuming financial liability in accordance with paragraph (d)(2) of this section for the direct costs of responding to the request. If the request is made for records in a Regional or Subregional Office of the Agency, it

should be made to that Regional or Subregional Office. If the request is for records located in Washington, DC (in the Office of the General Counsel, the Offices of the Board, or the Office of the Inspector General), it should be made to the NLRB FOIA Officer, Washington, DC. Requests made to other than the appropriate office will be forwarded to that office by the receiving office, but in that event the applicable time limit for response set forth in (c)(2)(i) of this section shall be calculated from the date of receipt by the appropriate office. FOIA requests made to an office other than to the office where the records were generated may be referred to the generating office for response. In the case of records generated by the Inspector General in the possession of another office, or in the possession of the Inspector General but generated by another office of the Agency, the request will be referred to the appropriate FOIA officer for the generating office for decision. If the Agency determines that a request does not reasonably describe records, it may contact the requester to inform the requester either what additional information is needed or why the request is insufficient. Requesters may be given an opportunity to discuss their request so that requests may be modified to meet the requirements of this section.

(2) * * *

(iii) Within 20 working days after receipt of a request by the appropriate office of the Agency, a determination shall be made whether to comply with such request, and the person making the request shall be notified in writing of that determination. In the case of requests made for Inspector General records, that determination shall be made by the Inspector General. In the case of all other requests, that determination shall be made by the NLRB FOIA Officer, or the Regional or Subregional Office, as the case may be. If the determination is to comply with the request, the records shall be made promptly available to the person making the request and, at the same time, a statement of any charges due in accordance with the provisions of paragraph (d)(2) of this section will be provided. If the determination is to deny the request in any respect, the requester shall be notified in writing of that determination. Adverse determinations, or denials of requests, consist of: A determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed

fee matter, including a denial of a request for a fee waiver or reduction or placement in a particular fee category; and a denial of a request for expedited treatment. For a determination to deny a request in any respect, the notification shall set forth the reasons therefor and the name and title or position of each person responsible for the denial, shall provide an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation (this estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption), and shall notify the person making the request of the right to appeal the adverse determination under provisions of paragraph (c)(2)(v) of this section.

* * * * *

(v) An appeal from an adverse determination made pursuant to paragraph (c)(2)(iii) of this section must be filed within 28 calendar days of the service of the adverse determination, in whole or in part. If the adverse determination was made by the NLRB FOIA Officer concerning records located in the Office of the General Counsel, Washington, DC, or by a Regional Office or a Subregional Office concerning records located there, the appeal shall be filed with the General Counsel in Washington, DC. If the adverse determination was made by the NLRB FOIA Officer concerning records in the Offices of the Board, or by the Inspector General concerning records generated by that office, the appeal shall be filed with the Chairman of the Board in Washington, DC. As provided in paragraph (c)(2)(iii) of this section, an adverse determination will notify the requester of the right to appeal the adverse determination and will specify where such appeal shall be filed. Within 20 working days after receipt of an appeal, the General Counsel or the Chairman of the Board, as the case may be, shall make a determination with respect to such appeal and shall notify the person making the request in writing. If the determination is to comply with the request, the record shall be made promptly available to the person making the request upon receipt of payment of any charges due in accordance with the provisions of paragraph (d)(2) of this section. If on appeal the denial of the request for records is upheld in whole or in part, the person making the request shall be notified of the reasons for the determination, the name and title or

position of each person responsible for the denial, and the provisions for judicial review of that determination under the provisions of 5 U.S.C.

552(4)(B). Even if no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the General Counsel or the Chairman of the Board may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of an adverse determination under this appeal procedure by written notification to the person making the request. In such event, the time limit for making the determination shall commence with the issuance of such notification. An adverse determination by the General Counsel or the Chairman of the Board, as the case may be, will be the final action of the Agency. If the requester wishes to seek review by a court of any adverse determination, the requester must first appeal it under this section.

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Signed in Washington, DC, January 25, 2012.

Mark Gaston Pearce,
Chairman.

[FR Doc. 2012-2059 Filed 1-30-12; 8:45 am]

BILLING CODE 7545-01-P

DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

[Docket ID ED-2011-OS-0005]

RIN 1894-AA02

Final Revisions to Certain Data Collection and Reporting Requirements, Final Priority; State Fiscal Stabilization Fund Program and Discretionary and Other Formula Grant Programs

AGENCY: Department of Education.

ACTION: Revisions to certain data collection and reporting requirements, and final priority.

SUMMARY: The Secretary of Education (Secretary) issues final revisions to certain data collection and reporting requirements, and a final priority, under the State Fiscal Stabilization Fund program.

DATES: Effective March 1, 2012.

FOR FURTHER INFORMATION CONTACT: James Butler, State Fiscal Stabilization Fund Program, U.S. Department of Education, 400 Maryland Ave. SW., room 7E214, Washington, DC 20202-0008. Telephone: (202) 260-9737 or by email: State.Fiscal.Fund@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text

telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The State Fiscal Stabilization Fund (SFSF) program provided States approximately \$48.6 billion in formula grants to help stabilize State and local budgets and minimize and avoid reductions in education and other essential services. In exchange, States committed to advance education reform in four key areas: (1) Achieving equity in the distribution of effective teachers; (2) improving the collection and use of data; (3) standards and assessments; and (4) supporting struggling schools.

Program Authority: American Recovery and Reinvestment Act of 2009 (ARRA), Division A, Title XIV—State Fiscal Stabilization Fund, Public Law 111-5; 20 U.S.C. 1221e-3 and 3474.

Summary of Final Revisions: In this notice, the Secretary (1) exempts certain States from collecting and reporting on Descriptors (a)(1) and (a)(2) and Indicators (a)(3) through (a)(7); (2) eliminates the requirement for States to report data annually for Indicators (c)(1) through (c)(9) and (d)(1) through (d)(6); (3) extends to December 31, 2013, upon submission of an approvable request by a State, the deadline for meeting the requirements under Indicators (b)(1) and (c)(12); (4) extends to December 31, 2013, upon submission of an approvable request by a State, the deadline for collecting and publicly reporting or developing the capacity to collect and publicly report student enrollment data under Indicator (c)(11) for high school graduates who enroll in an in-state public institution of higher education (IHE); and (5) applies an alternative standard, upon submission of an approvable request by a State, by which a State may meet the Indicator (c)(11) data collection and reporting requirements for high school graduates who enroll in in-state private, out-of-state private, or out-of-state public IHEs. The Secretary establishes December 31, 2013, as the deadline by which a State must meet the requirements of the Indicator (c)(11) alternative standard.

In addition, the Secretary establishes a priority that the Department may use in future discretionary grant competitions for States that have met the requirements of Indicator (b)(1) on or before the applicable deadline. Further, the Secretary establishes the authority to extend those sanctions to State educational agencies (SEAs) in States that have received an extension of the deadline to December 31, 2013, for Indicator (b)(1), (c)(11), or (c)(12) but fail

to meet the revised deadline or that have received permission to use the alternative standard for Indicator (c)(11) but fail to meet the requirements of that standard by the deadline.

The Department also establishes the authority to take enforcement action against an SEA under certain circumstances where a State fails to meet the requirements of Indicators (b)(1), (c)(11), or (c)(12).

Background: Section 14005(d) of Division A of the ARRA required a State receiving funds under the SFSF program to provide assurances in four key areas of education reform: (1) Achieving equity in the distribution of effective teachers; (2) improving collection and use of data; (3) standards and assessments; and (4) supporting struggling schools.

In a notice of final requirements, definitions, and approval criteria published in the **Federal Register** on November 12, 2009 (74 FR 58436) (November 2009 Notice), the Department established specific data and information requirements (assurance indicators and descriptors) that a State had to meet to demonstrate compliance with the statutory assurances. We also established specific requirements for the plans that a State had to submit as part of its application for the second phase of funding under the SFSF program. These plans describe the steps a State would take to collect and publicly report, or to develop the capacity to collect and publicly report, the required data and other information.

As we explained in the November 2009 Notice, these two sets of requirements make transparent the extent to which a State is implementing the promised reforms. Increased access to and focus on these data better enable States and other stakeholders to identify strengths and weaknesses in education systems and to determine where concentrated reform effort is warranted.

We are taking the actions in this notice in response to the January 18, 2011, Executive Order 13563 entitled “Improving Regulation and Regulatory Review” and the February 28, 2011, memorandum from the President to executive departments and agencies entitled “Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments.” These documents direct each Federal executive department and agency to review periodically its existing significant regulations and determine whether any should be modified, streamlined, expanded, or repealed so as to make the department’s or agency’s regulatory program more effective or less burdensome. These modifications