

DEPARTMENT OF EDUCATION

RIN 1810-AA79

34 CFR Part 263**Indian Fellowship and Professional Development Programs**

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations that govern the competition of new fiscal year (FY) 1995 grants for the Indian Fellowship Program. This program is authorized under Title IX of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, enacted October 20, 1994. These regulations identify eligible applicants for the program and the specific application and other program requirements that must be met in order to be considered for funding. These regulations also provide the requirements for the new payback provisions that apply to both the Indian Fellowship Program and the Professional Development Program. These regulations will govern the grant application process for new FY 1995 awards for the Indian Fellowship Program. In addition, the new payback provisions apply to the FY 1995 Professional Development Program.

EFFECTIVE DATE: These regulations take effect July 27, 1995.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260-1683. 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: On October 20, 1994, the Professional Development Program and the Indian Fellowship Program were substantially revised and recodified as, respectively, sections 9122 and 9123 of Subpart 2 of Part A of Title IX of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 103-382. These regulations identify eligible applicants for the Indian Fellowship program and address the specific program requirements, including application requirements and requirements concerning the new payback provisions that apply to the Indian Fellowship Program, that must be met in order to be considered for funding.

In addition, certain of these regulations govern the Professional Development Program (Section 263.3 *Definitions*, and sections 263.1(b)-(c)

and 263.35-263.37, concerning the new payback provisions that also apply to this program).

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in fiscal year (FY) 1995, the Assistant Secretary, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue these final regulations, which will apply only to the FY 1995 grant competitions in the Indian Fellowship and Professional Development Programs. These regulations are being published as final regulations in their entirety (rather than amending portions of the existing regulations) for the convenience of the applicants in these competitive grant programs. In addition, certain provisions of these regulations govern the FY 1995 Professional Development Program.

The Assistant Secretary will publish, later this year, a notice of proposed rulemaking (NPRM) for these programs and will offer interested parties the opportunity to comment. After comments are considered, another final rule will be published that will govern the grant competitions for FY 1996 and succeeding fiscal years. In developing the NPRM, the Assistant Secretary is interested in receiving suggestions for improving these regulations. Please send your suggestions to Cathie Martin, Office of Indian Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, Room 4300, Washington, D.C. 20202-6335.

Executive Order 12866

These 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 these 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 1980.

In assessing the potential costs and benefits—both quantitative and

qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

Assessment of Educational Impact

Based on the Department's review, the Secretary has determined that these regulations do not 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 263

Grant programs-education, Indians-education, Reporting and recordkeeping requirements, Scholarships and fellowships.

(Catalog of Federal Domestic Assistance Numbers: 84.087 Indian Education—Fellowships for Indian Students; and 84.299 Indian Education—Special Programs)

Dated: June 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 263 to read as follows:

PART 263—INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS**Subpart A—General**

Sec.

263.1 What are the Indian Fellowship and Professional Development Programs?

263.2 Who is eligible to apply under the Indian Fellowship Program?

263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?

263.4 What are the allowable fields of study in the Indian Fellowship Program?

263.5 What does a fellowship award include?

263.6 What is the time period for a fellowship award?

Subpart B—How Does the Secretary Select Fellows?

263.20 What priority is given to certain applicants?

263.21 What should the fellowship application contain?

263.22 How does the Secretary evaluate applications?

Subpart C—What Conditions Must be Met by Fellows?

263.30 What are the basic requirements of a Fellow?

263.31 What information must be submitted after a fellowship is awarded?

263.32 What are the requirements for a leave of absence?

263.33 What is required for continued funding under a fellowship?

263.34 When is a fellowship discontinued?

263.35 What are the payback requirements?