

**Register
Federal Paper**

FRIDAY, JULY 1, 1977

PART II



**DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE**

Office of Education



**EMERGENCY
SCHOOL AID**

Grant Awards for Fiscal Year 1977

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID

AGENCY: Office of Education, HEW.

ACTION: Final rule.

SUMMARY: The regulations in this document are for the purpose of governing the award of fiscal year 1977 grants for the planning and operation of magnet schools, cooperative programs between local educational agencies and universities or businesses, and the planning of neutral site schools. These activities are authorized by amendments to the Emergency School Aid Act contained in the Education Amendments of 1976.

EFFECTIVE DATE: As required by section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject to it become effective on the forty-fifth day following transmission, subject to the provisions in that section concerning Congressional action and adjournment.

ADDRESSES: Any comments or questions concerning these regulations should be directed to Thomas W. Fagan, Room 2017, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Fagan. (202-245-2465.)

SUPPLEMENTARY INFORMATION: Under the authority of the Emergency School Aid Act ("ESAA"; 20 U.S.C. 1601 et seq.) and, in particular, the 1976 amendments to that statute contained in section 321(c) of Pub. L. 94-482, the Commissioner (to whom the Assistant Secretary has delegated functions under the ESAA) amends the regulations in 45 CFR Part 185 by adding a new Subpart L as set forth below.

PUBLIC AND ADVISORY COUNCIL PARTICIPATION

A notice of Intent to Issue Regulations to implement the 1976 amendments to the ESAA was published in the FEDERAL REGISTER on November 22, 1976 (41 FR 51550). Five commenters responded with suggestions concerning magnet schools, university/business cooperation, or neutral site planning, and the Commissioner has considered these suggestions in developing the regulations in this document. In addition, the Commissioner has received and considered the advice of the National Advisory Council on Equality of Educational Opportunity (NACEEO) respecting these regulations. For the reasons described below, the Commissioner issues the regulations in this document as a final rule. He anticipates further participation by the public and the NACEEO in connection with the publi-

cation of proposed regulations to govern the award of funds in subsequent fiscal years.

DEFINITIONS

Definitions of some terms used in Subpart L are contained in existing regulations pertaining to the Emergency School Aid Act. See, in particular, § 185.02. However, § 185.101 in Subpart L contains definitions of certain terms used in that Subpart alone. The definitions of "magnet school" and "neutral site school" are taken from the 1976 amendments to the statute. The definition of a "special curriculum" required for a magnet school permits the award of a grant in connection with a school that offers a course of study embracing either special subject matter or a special teaching methodology. The "special curriculum" need not be unique. An applicant may seek funds in connection with more than one school offering the same curriculum, or schools offering different curricula, so long as the curriculum at each school is not generally available in the applicant's schools.

The definition of "special curriculum" excludes curricula designed solely for handicapped students or for students of limited English-speaking ability because students are assigned to these curricula by virtue of their special educational needs. In order to ensure that a magnet school is open to students of various ethnic and economic backgrounds, the definition of "special curriculum" also excludes one in which a student is unable to participate because of his or her limited English-speaking ability or limited financial resources. Finally, the definition excludes a curriculum which fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools. This provision is designed to ensure that a student's enrollment in a magnet school will result in no academic penalty either in the magnet school or in another school to which the student transfers after enrolling in the magnet school.

ELIGIBILITY

Section 185.102 sets out the eligibility requirements for a grant under Subpart L. It provides that only a local educational agency may apply for such a grant, and that the applicant must comply with the civil rights related limitations on eligibility applicable to any educational agency seeking ESAA assistance.

In the case of a grant to conduct educational programs in a magnet school, a further eligibility requirement obtains. Under the statute, this kind of grant may be used only in connection with a school or education center that offers a special curriculum "capable of attracting substantial numbers of students of different racial backgrounds" (20 U.S.C. 1619(9)). Section 185.102(c) requires that the enrollment of a magnet school include substantial numbers of students from different racial backgrounds 60 days after the beginning of the first school term during the project period.

The purpose of this provision is to ensure that the curriculum of the school is truly capable of attracting a racially diverse student body, and thereby to ensure that grant funds are used for the purposes permitted by the statute. The Commissioner encourages applicants for magnet school grants to take the necessary steps to attract a racially diverse student body to each school before the beginning of the school term, and anticipates that applicants will be successful in this regard. However, the Commissioner recognizes that precise enrollment figures are difficult to ascertain before school opens, that some students enroll after that date, and that a limited number of students may be attracted to one school after first enrolling in another. For these reasons, he has determined that the capability of a curriculum to attract a racially diverse student body should be assessed 60 days after the beginning of the school term.

Under § 185.102(c), minority group students may constitute between 20 and 50 percent of the enrollment of a magnet school. If the applicant enrolls in its schools students from more than one minority group, the minority group enrollment of the magnet school must generally reflect the minority group enrollment in the applicant's schools as a whole. In establishing these requirements, the Commissioner has been guided, first, by the purposes of the Emergency School Aid Act set out at 20 U.S.C. 1601(b) and, in particular, 20 U.S.C. 1601(b)(2):

To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

In view of the purposes of the statute, the Commissioner has determined that funds may not be used in connection with a minority group isolated school as that term is defined in the statute. (See 20 U.S.C. 1619(11) and § 185.02(g) of the ESAA regulations.) Therefore, the regulations establish a ceiling of 50 percent for the minority group enrollment in a magnet school.

In establishing a floor of 20 percent minority enrollment in a magnet school, the Commissioner has been guided by the views of experts in school desegregation. For example, Dr. Thomas Pettigrew, in testimony before Congress prior to the enactment of the ESAA, expressed his opinion that the optimum minority group enrollment in a school was not less than 20 percent. (Hearings before the Select Committee on Equal Educational Opportunity of the United States Senate on Equal Educational Opportunity, 91st Cong., 2d Sess., Pt. 2, at 769 (1970).) More recently Dr. Charles V. Willie cited the same percentage figure as the lower limit of a sufficient minority group enrollment range. (Willie, Charles V. "Racial Balance or Quality Education". "The University of Chicago School Review" 84 (1976): 319.)

The regulations require a recipient of a grant to conduct educational programs in a magnet school to report the

enrollment of the school as of the 60th day after the beginning of the school term. If a racially diverse student body as described above has not been attracted to a school by that time, the grant is terminated insofar as it relates to that school.

AUTHORIZED ACTIVITIES

Section 185.103 sets out the activities for which funds awarded under Subpart L may be used. These activities fall into three major categories set out at 20 U.S.C. 1606(a) (13)-(15):

1. Planning and design of, and conduct of programs in, magnet schools;
2. The pairing of schools and programs with specific colleges and universities and with leading businesses; and
3. The development of plans for neutral site schools.

These activities, like those under other ESAA programs, may be assisted only if they would not otherwise be funded and are designed to carry out the purposes of the statute. Limited repair and minor remodeling or alteration of existing facilities may be assisted in connection with activities otherwise authorized.

The regulations amplify each of the three major categories of authorized activities. In the case of magnet schools both educational and architectural planning, as well as related activities, may be assisted. The conduct of educational programs in a magnet school may also be assisted, so long as the applicant's fiscal effort per student for students enrolled in the magnet school will be no less than that for students enrolled in comparable schools. This restriction is designed to ensure that ESAA funds are not used as a substitute for non-Federal funds.

In the case of university/business cooperation, the regulations do not delimit the kinds of cooperative educational programs which may be assisted. However, taking into account the purposes of the statute, the Commissioner has determined that these programs must be designed to benefit students or staff in a magnet school, a school affected by a plan described in 20 U.S.C. 1605(a), or a minority group isolated school.

The regulations relating to neutral site planning distinguish between planning activities, which may be assisted, and activities that occur after planning has been completed, which may not.

Activities may be assisted only in connection with a school planned to have the enrollment characteristics described above for a magnet school, and one which will be equally accessible to students from all racial groups.

APPLICATIONS AND FUNDING CRITERIA

Section 185.104 sets out the information and assurances required to be included in an application for a grant under Subpart L. It provides that an applicant under Subpart L must include enrollment data needed for the evaluation of its application, as well as the information required of local educational agencies under other ESAA programs.

Section 185.105 sets out objective criteria for use in evaluating applications for grants relating to magnet schools or university/business cooperation. The objective criteria are designed to measure the net change in minority group isolation in the applicant's schools over two periods. For fiscal year 1977 grants these periods are: (1) fiscal year 1975 compared to fiscal year 1978 (when the assisted activities would be carried out), and (2) fiscal year 1977 compared to fiscal year 1978. The elimination, reduction, or prevention of isolation in the latter period has twice the weight of that in the former. Thus, the criteria emphasize the efficacy and comprehensiveness of the applicant's efforts to address minority group isolation, and the need arising from those efforts.

Each application under Subpart L is also evaluated, in whole or in part, on the basis of other criteria. An application for a grant relating to magnet schools or university/business cooperation is evaluated on the basis of the educational criteria set out in § 185.106 as well as the objective criteria described above. An application for a grant relating to neutral site planning is evaluated only on the basis of the criteria set out in § 185.107.

Section 185.108 sets out the funding procedures for the award of grants under Subpart L. It provides for an annual reservation of a proportion of available funds for neutral site planning. Applications for grants relating to magnet schools or university/business cooperation are evaluated separately from applications for grants relating to neutral site planning. Awards are made to the highest ranking applicants in each of these two categories. However, in the case of applications for grants relating to magnet schools or university/business cooperation, the regulations provide for the award of at least five grants where a sufficient number of meritorious applications has been submitted. The purpose of this provision is to ensure that the needs of a number of applicants are met to some extent, and to provide a basis for evaluating the program in its initial phase.

OTHER PROVISIONS

Sections 185.109 and 185.110 incorporate the requirements for public and advisory committee participation and non-public school participation, respectively, that apply to any local educational agency seeking ESAA assistance.

WAIVER OF PROPOSED RULEMAKING PROCEDURES

In accordance with section 431(b) (2) (A) of the General Education Provisions Act ("GEPA"; 20 U.S.C. 1232(b) (2) (A)) it has been the practice of the Office of Education to offer interested parties the opportunity to review and comment on proposed regulations. For the reasons described below, the Commissioner finds that resort to this practice in connection with the regulations contained in this document is impracticable and contrary to the public interest under 5 U.S.C. 553(b).

The regulations contained in this document are needed to govern the award of \$7,500,000 appropriated by the Supplemental Appropriations Act, 1977 (Pub. L. 95-26, enacted May 4, 1977) in a timely and prudent fashion. These funds are the first to be appropriated to carry out the new activities authorized by amendments to the ESAA contained in section 321(c) of the Education Amendments of 1976 (Pub. L. 94-482, enacted October 12, 1976). Under section 301 of the appropriations statute, the funds remain available for obligation by the Office of Education until September 30, 1977. Regulations governing the obligation of these funds must therefore be in effect before that date.

Practical considerations relating to the use of the funds by local educational agencies demand that the regulations be in effect well in advance of September 30. Like funds appropriated for other programs under the ESAA, the funds at issue here are, in the main, for use in connection with school years which typically begin in early September. Further, applicants for these funds need to know sometime prior to the beginning of their proposed projects whether, and to what extent, Federal financial support for those projects will be forthcoming. Staff must be hired, materials and equipment must be acquired, and plans must be made. These considerations require that the regulations be in effect, and fiscal year 1977 grants for the newly authorized activities be made, as early as possible.

The regulations in this document are subject to the delayed effective date provisions contained in section 431(d) of the GEPA (20 U.S.C. 1232(d)). While the period of delay specified in section 431(d) is 45 days, a delay of up to 84 days can occur as a result of the provisions in that section concerning Congressional adjournment. The period of delay runs from the promulgation of final regulations. Resort to proposed rulemaking procedures would entail an additional delay in the effective date of the regulations arising from: (1) the period for public comment, and (2) a further period for the review of any comments received and republication of the regulations in final form.

Considering the time required to solicit public comment and to engage in a conscientious reconsideration of the regulations in the light of any comments received, and considering the delayed effective date provisions of section 431(d), it appears that final regulations could not take effect, following proposed rulemaking procedures, in time to govern timely awards of assistance for the coming school year. Therefore, the Commissioner for good cause finds that resort to proposed rulemaking procedures with respect to the regulations in this document would be impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(b).

While these regulations are issued as a final rule, the Commissioner welcomes comments on them at any time. These comments should be directed to the address set out at the beginning of this

document. Following the expiration of fiscal year 1977 the Commissioner will develop proposed regulations to govern the award of funds in subsequent fiscal years, taking into account any comments received.

NOTE.—The Commissioner has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, 45 CFR Part 185 is amended as set forth below.

(Catalog of Federal Domestic Assistance Numbers 13.589—Magnet Schools, University/Business Cooperation and 13.590—Neutral Site Planning.)

Dated: June 13, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: June 14, 1977.

MARY F. BERRY,
Assistant Secretary
for Education.

Approved: June 21, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health,
Education, and Welfare.

1. The Table of Contents is amended by adding at the end thereof the following:

Subpart L—Magnet Schools, University/Business Cooperation, and Neutral Site Planning

- 185.101 Definitions.
- 185.102 Eligibility.
- 185.103 Authorized activities.
- 185.104 Applications.
- 185.105 Objective criteria—magnet schools and university/business cooperation.
- 185.106 Educational criteria — magnet schools university/business cooperation
- 185.107 Neutral site planning criteria.
- 185.108 Funding procedures.
- 185.109 Public and advisory committee participation.
- 185.110 Nonpublic school participation.

AUTHORITY: Emergency School Aid Act ("ESAA"; 20 U.S.C. 1601 et seq.) 1976 amendments to Sec. 32(c) of Pub. L. 94-482.

2. A new Subpart L is added, as follows:

Subpart L—Magnet Schools, University/Business Cooperation, and Neutral Site Planning

§ 185.101 Definitions.

The following definitions apply to terms used in this subpart:

"Magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"Neutral site school" means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

"Special curriculum" means a course of study embracing subject matter or a teaching methodology that is not generally offered to students of the same age or grade level, and in the same local educational agency, as the students to

whom the special curriculum is offered. This term does not include—

(1) A course of study designed solely for handicapped students or for students of limited English-speaking ability; or

(2) A course of study in which any student is unable to participate because of his or her limited English-speaking ability; or

(3) A course of study in which any student is unable to participate because of his or her limited financial resources; or

(4) A course of study which fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools.

(20 U.S.C. 1603(d), 1619(9), 1619(12).)

§ 185.102 Eligibility.

(a) Any local educational agency may apply for a grant under this subpart.

(20 U.S.C. 1603(d), H.R. Rep. No. 94-1701, 94th Cong., 2d Sess. 231 (1976).)

(b) The provisions of § 185.43 (limitations on eligibility), § 185.44 (waivers of ineligibility), and § 185.46 (determinations of ineligibility prior to award to assistance) apply to any local educational agency seeking a grant under this subpart.

(20 U.S.C. 1603(d), 1605(d).)

(c) In the case of a grant for activities described in § 185.103(a) relating to the conduct of educational programs in a magnet school, the Assistant Secretary will consider the curriculum of a magnet school to be capable of attracting substantial numbers of students of different racial backgrounds only if, 60 days after the beginning of the first school term during the project period, the enrollment of the school meets the following requirements:

(1) Minority group students constitute no less than 20 percent and no more than 50 percent of the enrollment;

(2) The ratios of the number of students from each minority group to the total number of minority group students enrolled in the magnet school generally reflect the ratios among minority group students enrolled in all the schools of the recipient; and

(3) No student has been compelled to enroll in the magnet school, or to enroll in another school after enrolling in the magnet school.

If the enrollment of any school does not meet these requirements, the Assistant Secretary shall terminate the grant in accordance with § 185.45 insofar as it relates to that school.

(d) A recipient of a grant for activities described in § 185.103(a) relating to the conduct of educational programs in a magnet school shall submit to the Assistant Secretary a report showing the number of nonminority group students and the number of students from each minority group who were enrolled at each magnet school to which the grant relates on the 60th day after the beginning of the first school term during the

project period. The recipient shall submit this report within 75 days after the beginning of that school term unless the Assistant Secretary, for good cause shown, sets a later date for submission.

(20 U.S.C. 1603(d), 1607(a) (13), 1619(9).)

§ 185.103 Authorized activities.

Funds awarded under this subpart may be used for the activities described in this section if those activities would not otherwise be funded and if they are designed to carry out the purposes described in § 185.01 (relating, generally, to the elimination of minority group segregation, discrimination, and isolation and the effects thereof). No more than 10 percent of the funds awarded under this subpart may be used for the repair and minor remodeling or alteration of facilities.

(a) *Magnet schools.* (1) Funds may be used for the following three activities:

(i) The planning and design of one or more magnet schools;

(ii) The conduct of educational programs in one or more magnet schools; and

(iii) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of existing school facilities in connection with the conduct of educational programs in one or more magnet schools.

(2) The planning and design of a magnet school includes, but is not limited to, the following activities:

(i) Planning and design of educational programs for the school;

(ii) Architectural design of new or modified facilities to house the school;

(iii) Surveys and studies relating to the establishment or improvement of the school; and

(iv) Recruitment of students and staff for the school.

(3) The Assistant Secretary shall award funds for the conduct of educational programs in a magnet school only if the applicant's fiscal effort per student for students enrolled at a magnet school is no less than its fiscal effort per student for students enrolled at all schools serving students of the same age or grade level operated by the applicant in the fiscal year for which it seeks assistance under this subpart. For the purpose of this subparagraph, "fiscal effort per student" means the expenditure for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities (but not including expenditures for community services, capital outlay and debt service, or any expenditure from funds granted under any Federal program of assistance) divided by the number of students with respect to whom the computation is made.

(b) *University/business cooperation.* Funds may be used for—

(1) The conduct of educational programs by the applicant, in cooperation with one or more colleges, universities, or leading businesses, for the benefit of

students enrolled, or staff employed, in—

(i) A magnet school assisted under this subpart;

(ii) A school affected by a plan or project described in § 185.11 or § 185.31 (a); or

(iii) A minority group isolated school (as defined in § 185.02(g)); and

(2) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of facilities in connection with the conduct of these educational programs.

(c) *Neutral site planning.* (1) Funds may be used for the development of plans for one or more neutral site schools, including but not limited to the following activities:

(i) Surveys and studies to determine the location of the school;

(ii) Planning educational programs for the school;

(iii) Architectural design of facilities to house the school; and

(iv) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of facilities in connection with the development of plans for the school.

(2) Funds may be used only in connection with a school planned to have the following characteristics:

(i) Minority group students will constitute no less than 20 percent and no more than 50 percent of the enrollment of the school;

(ii) The ratios of the number of students from each minority group to the total number of minority group students who will be enrolled in the school generally reflect the ratios among minority group students who will be enrolled in all the schools of the recipient; and

(iii) The school will be equally accessible to nonminority group students and students from each minority group who will be enrolled in it.

(3) Funds may not be used for—

(i) The acquisition or improvement of a site for the school;

(ii) The construction of facilities to house the school;

(iii) The acquisition of equipment for the school; or

(iv) Any activity related to the operation of the school.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(15), 1619 (10) and (12); 122 CONG. REC. S16870, S16872 (daily ed. Sept. 28, 1976), H11691, H11699 (daily ed. Sept. 29, 1976).)

§ 185.104 Applications.

(a) An applicant for a grant under this subpart shall include in its application a description of the activities for which it seeks assistance and the information described in §§ 185.109 and 185.110.

(b) The provisions of § 185.13 (a) through (n), relating to applications, apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(c) In the case of an application for a grant to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the applicant

shall include in its application the information described in this paragraph.

(1) Except as provided in subparagraph (2) of this paragraph, the applicant shall include—

(i) The number of minority group students and the total number of students enrolled or to be enrolled in each of its schools in the following years:

(A) "Base year I" (meaning the third fiscal year prior to the fiscal year for which an applicant seeks assistance under this subpart);

(B) "Base year II" (meaning the fiscal year immediately prior to the fiscal year for which an applicant seeks assistance under this subpart); and

(C) The "project year" (meaning the fiscal year for which an applicant seeks assistance under this subpart); and

(ii) A description of the basis for its enrollment projections for the project year.

(2) (i) If an applicant is eligible for assistance under this part under a plan described in § 185.11(b) (3) or a project described in § 185.11(d) and chooses to rely on that plan or project in its application for assistance under this subpart, it shall include the number of minority group students and the total number of students who would be enrolled, in the project year, in each of its schools—

(A) If the plan or project were implemented; and (B) if the plan or project were not implemented.

(ii) If the applicant chooses to rely solely on that plan or project, it is not required to include the information described in subparagraph (1) of this paragraph.

(d) Both an applicant for a grant under this subpart and the Assistant Secretary shall make the application and all correspondence and other written materials relating to it readily available to the public.

(20 U.S.C. 1603(d), 1609 (a) and (b), 1612, 1605(d), 1228.)

§ 185.105 Objective criteria—magnet schools and university/business cooperation.

(a) (1) In evaluating an application for a grant under this subpart to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the Assistant Secretary shall assign the application up to 90 points for the net change in isolation in the applicant's schools between base year I and the project year, and between base year II and the project year. ("Base year I," "base year II," and "project year" are defined at § 185.104.)

(2) The Assistant Secretary shall assign points for net change in isolation on the basis of the procedure described in this section.

(b) From the information required to be included in an application under § 185.103(c), the minority group percentage of the enrollment of each of the applicant's schools in base year I is computed. The number of minority group students enrolled in schools with-

in each percentage range in Column A of Table I is determined. The number of students in each percentage range is then multiplied by the corresponding weight in Column B of Table I. The resulting weighted numbers are added. The sum is then divided by the total number of minority group students enrolled in the applicant's schools for that year.

TABLE I

| Column A, minority group percentage: | Column B, Weight |
|--------------------------------------|------------------|
| 95 or more..... | 0 |
| At least 90 but less than 95.... | .1 |
| At least 85 but less than 90.... | .2 |
| At least 80 but less than 85.... | .3 |
| At least 75 but less than 80.... | .4 |
| At least 70 but less than 75.... | .5 |
| At least 65 but less than 70.... | .6 |
| At least 60 but less than 65.... | .7 |
| At least 55 but less than 60.... | .8 |
| More than 50 but less than 55.... | .9 |
| 50 or less..... | 1.0 |

(c) The computation described in paragraph (b) of this section is repeated using the number of minority group students to be enrolled in the applicant's schools in the project year.

(d) The result of the computation for base year I is subtracted from the result of the computation for the project year to determine the net change in isolation between base year I and the project year. Using Table II, the Assistant Secretary assigns the application the number of points in Column B which corresponds to the applicant's net change in isolation in Column A.

TABLE II

| Column A, net change in isolation: | Column B, points |
|------------------------------------|------------------|
| 96 to 100 | 29 |
| 91 to 95.99..... | 30 |
| 86 to 90.00..... | 27 |
| 81 to 85.99..... | 26 |
| 76 to 80.99..... | 24 |
| 71 to 75.99..... | 23 |
| 66 to 70.99..... | 21 |
| 61 to 65.99..... | 20 |
| 56 to 60.99..... | 18 |
| 51 to 55.99..... | 17 |
| 45 to 50.99..... | 15 |
| 41 to 44.99..... | 14 |
| 36 to 40.99..... | 12 |
| 31 to 35.99..... | 11 |
| 26 to 30.99..... | 9 |
| 21 to 25.99..... | 8 |
| 15 to 20.99..... | 6 |
| 11 to 14.99..... | 5 |
| 6 to 10.99..... | 3 |
| 4 to 5.99..... | 2 |
| 0 to 3.99..... | 1 |

(e) The computation described in paragraph (b) of this section is repeated using the number of minority group students enrolled in the applicant's schools in base year II. The result of this computation is subtracted from the result of the computation for the project year to determine the net change in isolation between base year II and the project year. Using Table II, the Assistant Secretary assigns the application the number of points in Column B which corresponds to the applicant's net change in isolation in Column A multiplied by two.

(f) If the applicant relies on either a plan described in § 185.11(b) (3) or a project described in § 185.11(d), or both,

and on the reduction or elimination of minority group isolation, the Assistant Secretary assigns the application points on the basis of the computations described in paragraphs (b) through (e) of this section using as project year data the enrollment data based on implementation of the plan or project.

(g) If the applicant relies solely on a plan described in § 185.11(b)(3) or a project described in § 185.11(d), or both, the Assistant Secretary assigns the application points on the basis of the computations described in paragraphs (b) through (e) of this section—

(1) Using as base year I and base year II data the enrollment data based on no implementation of the plan or project; and

(2) Using as project year data the enrollment data based on implementation of the plan or project.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(14), 1609(c) (1)-(4).)

§ 185.106 Educational criteria—magnet schools and university/business cooperation.

In evaluating an application for a grant under this subpart to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the Assistant Secretary shall assign the application up to 70 points on the basis of the following criteria:

(a) *Need assessment (10 points)*. (1) The magnitude of the need for the activities proposed in the application (5 points); and

(2) The extent to which the need is supported by objective evidence (5 points).

(b) *Statement of objectives (10 points)*. (1) The extent to which the applicant sets out specific, measurable objectives related to the need assessed (4 points);

(2) The extent to which the objectives realistically address the need assessed (3 points); and

(3) The extent to which the objectives were developed by persons with relevant experience and persons from all racial and ethnic populations to be served by the proposed activities (3 points).

(c) *Activities (36 points)*.—(1) *Project design (24 points)*. (i) The extent to which the proposed activities are unique (4 points);

(ii) The thoroughness of the applicant's planning for the proposed activities and the extent to which those activities will be coordinated with other efforts by the applicant to eliminate, reduce, or prevent minority group isolation (4 points);

(iii) The extent to which the proposed activities will promote interracial and intercultural contact and understanding (3 points);

(iv) The extent to which the proposed activities will meet the needs of individual students, including students of varying levels of achievement (4 points);

(v) The extent to which the proposed activities will reflect the interests of

parents, students, and other members of the community (3 points);

(vi) The extent to which the curriculum to which the proposed activities relate includes materials pertinent to the racial and ethnic composition of the schools or community to be served (2 points);

(vii) The extent to which instruction in basic skills is integrated into the proposed activities (2 points); and

(viii) The extent to which the proposed activities provide for cooperative planning among teachers and other staff to meet the needs of individual students (2 points).

(2) *Staffing (6 points)*. (i) The extent to which the applicant sets out an adequate staffing plan, including specific job responsibilities and provisions for making maximum use of present staff capabilities (2 points);

(ii) The extent to which the proposed activities will be conducted by staff which reflect the racial and ethnic composition of the schools or community to be served (2 points);

(iii) The extent to which the proposed activities include necessary staff training (2 points).

(3) *Parent and Community Involvement (6 points)*. (i) The extent to which the applicant will involve parents and students in carrying out the proposed activities, as by employing parents as instructional aides in the classroom and informing parents and students of progress made in carrying out the proposed activities (2 points);

(ii) The extent to which the applicant will involve in the proposed activities public and private agencies in the community which have previously been involved in activities related to the elimination, reduction, or prevention of minority group isolation (2 points); and

(iii) The extent to which the applicant delineates specific opportunities for the participation in the proposed activities of the advisory committee described in § 185.41 (2 points).

(d) *Management (8 points)*. (1) The extent to which the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives, and is reasonable in relation to the expected benefits (2 points);

(2) The extent to which the applicant has made all possible efforts to minimize the amount of funds requested for the purchase of equipment to carry out the proposed activities (2 points);

(3) The extent to which the applicant sets out a detailed and realistic schedule of implementation (2 points); and

(4) The extent to which the applicant sets out a plan for meeting the logistical requirements for the proposed activities, including a description of adequate and conveniently available facilities and equipment (2 points).

(e) *Evaluation (6 points)*. The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed activities

in achieving the stated objectives, including—

(1) A timetable for the compilation of data for evaluation and a method for continuing review of the proposed activities in the light of that data (2 points);

(2) A description of instruments to be used for evaluation of the proposed activities (and of the method for validating these instruments where necessary), or a description of the procedure to be employed in selecting these instruments (2 points); and

(3) Provisions for the comparison of evaluation results with norms, control group performance, results of other programs, or other external standards (2 points).

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(14), 1609(c) (1), (2), (4), and (6).)

§ 185.107 Neutral site planning criteria.

In evaluating an application for a grant under this subpart to carry out activities described in § 185.103(c) relating to neutral site planning, the Assistant Secretary shall assign the application up to 100 points on the basis of the following criteria:

(a) *Need assessment (20 points)*. (1) The magnitude of the need for the activities proposed in the application (10 points); and

(2) The extent to which the need is supported by objective evidence, including demographic data (10 points).

(b) *Statement of objectives (5 points)*.

(1) The extent to which the applicant sets out specific, measurable objectives related to the need assessed (2 points);

(2) The extent to which the objectives realistically address the need assessed (1 point); and

(3) The extent to which the objectives were developed by persons with relevant experience and persons from all racial and ethnic populations to be served by the proposed activities (2 points).

(c) *Activities (60 points)*.—(1) *Project design (35 points)*. (i) The extent to which the proposed activities will be coordinated with other efforts by the applicant to eliminate, reduce, or prevent minority group isolation (5 points);

(ii) The extent to which the proposed activities will be coordinated with the applicant's other planning activities, including those related to building use (5 points);

(iii) The extent to which the proposed activities will be coordinated with the planning activities of both other governmental agencies and the private sector to ensure that a neutral site school to which the proposed activities relate will have the characteristics described in § 185.103(c) (3) for an extended period (10 points);

(iv) The extent to which the proposed activities will assist in eliminating, reducing, or preventing minority group isolation in the schools of more than one local educational agency (5 points);

(v) The extent to which the proposed activities, including any educational planning activities, will reflect the interests of parents, students and other

member of the community (5 points); and

(vi) The extent to which the applicant provides evidence of a commitment to implement any plan developed with assistance under this subpart (5 points).

(2) *Staffing (10 points)*. (i) The extent to which the applicant sets out an adequate staffing plan, including specific job responsibilities and provisions for making maximum use of present staff capabilities (4 points);

(ii) The extent to which the proposed activities will be conducted by staff which reflect the racial and ethnic composition of the community to be served (3 points); and

(iii) The extent to which the proposed activities include necessary staff training (3 points).

(3) Parent and community involvement (15 points). (i) The extent to which the applicant will involve parents and students in carrying out the proposed activities (5 points);

(ii) The extent to which the applicant will involve in the proposed activities public and private agencies which have previously been involved in activities related to the elimination, reduction, or prevention of minority group isolation (5 points); and

(iii) The extent to which the applicant delineates specific opportunities for the participation in the proposed activities of the advisory committee described in § 185.41 (5 points).

(d) *Management (10 points)*. (1) The extent to which the amount of funds requested is of sufficient magnitude in relation to the stated objectives to give substantial promise of achieving those objectives, and is reasonable in relation to the expected benefits (2 points);

(2) The extent to which the applicant has made all possible efforts to minimize the amount of funds requested for the purchase of equipment to carry out the proposed activities (2 points);

(3) The extent to which the applicant sets out a detailed and realistic schedule of implementation (2 points); and

(4) The extent to which the applicant sets out a plan for meeting the logistical requirements for the proposed activities, including a description of adequate and

conveniently available facilities and equipment (4 points).

(e) *Evaluation (5 points)*. The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed activities in achieving the stated objectives, including—

(1) A timetable for the compilation of data for evaluation and a method for continuing review of the proposed activities in the light of that data (3 points); and

(2) A description of instruments to be used for evaluation of the proposed activities (and of the method for validating these instruments where necessary), or a description of the procedure to be employed in selecting these instruments (2 points).

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12) and (15), 1609(c) (1)–(4) and (6).)

§ 185.103 Funding procedures.

(a) The Assistant Secretary shall make any grant under this subpart from funds appropriated under section 704(d) of the Act. The Assistant Secretary will announce, by publication of a notice in the FEDERAL REGISTER:

(1) The amount of funds, if any, available for grants under this subpart in any fiscal year;

(2) The proportion of those funds which the Assistant Secretary will reserve for grants to carry out activities described in § 185.103(c) relating to neutral site planning;

(3) The project period for grants under this subpart; and

(4) The deadline for receipt of applications for these grants.

(b) (1) The Assistant Secretary shall separately evaluate applications for grants to carry out—

(i) Activities described in § 185.103(a) or (b) relating to magnet schools and university/business cooperation respectively; and

(ii) Activities described in § 185.103(c) relating to neutral site planning.

(2) The Assistant Secretary shall make grants to eligible applicants in each category on the basis of their ranking under the criteria in this subpart. However, the Assistant Secretary shall not be required

to approve any application which contains proposed activities that afford insubstantial promise of achieving the purposes described in § 185.01, as measured by the criteria in this subpart.

(c) The Assistant Secretary shall fix the amount of each grant on the basis of the additional cost (as defined in § 185.13(a)(1)) of carrying out authorized activities. However, if in any fiscal year at least five applicants have submitted applications for grants to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, and if their applications are otherwise approvable, the Assistant Secretary shall make no fewer than five grants for those activities. If the amount needed to fund all authorized activities proposed by the five highest ranking applicants exceeds the amount of funds available, the Assistant Secretary shall reduce the amount of each grant by an equal proportion.

(d) The Assistant Secretary shall not finally disapprove in whole or in part an application for a grant under this subpart without first notifying the applicant of the specific reasons for disapproval and affording the applicant an appropriate opportunity to modify its application.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)–(15), 1609(a) (4), 1609(c), 1609(d) (2), 1609(e).)

§ 185.109 Public and advisory committee participation.

The provisions of § 185.41 apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(20 U.S.C. 1609(a) (2), 1609(a) (3), 1609(b).)

§ 185.110 Nonpublic school participation.

The provisions of § 185.42 apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(20 U.S.C. 1609(a) (12), 1605(d), 1611(c).)

[FR Doc. 77-18283 Filed 6-30-77; 8:45 am]