

Even Start Program

Friday
February 28, 1992

Part VI

Department of Education

34 CFR Part 212

Elementary and Secondary Education:
Even Start Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 212

RIN: 1810-AA64

Even Start

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Even Start program. Even Start is authorized by part B, chapter 1, of title I of the Elementary and Secondary Education Act of 1965. The National Literacy Act of 1991 (Pub. L. 102-73) contains amendments to Even Start. These proposed regulations would amend current Even Start regulations to: (1) Reflect the statutory changes to Even Start contained in the National Literacy Act; (2) include provisions needed to govern the program when it becomes State-administered; and (3) make related changes to the migrant education component of the Even Start program.

DATES: Comments must be received on or before March 30, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mary Jean LeTendre, Director, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 2043, Washington, DC 20202-6132. Telephone: (202) 401-1692. Deaf and hearing impaired individuals may call (202) 732-4538 for TDD services.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Patricia McKee, Chief, Discretionary Grants Branch, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 2043, Washington, DC 20202, Telephone: (202) 401-1692. Deaf and hearing impaired individuals may call (202) 732-4538 for TDD services. For questions about the Migrant Education Even Start program, contact Howard Essl, Chief, Policy and Planning Branch, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2149, Washington, DC 20202-6135, Telephone: (202) 401-1611. Deaf and hearing impaired individuals may call (202) 732-4538 for TDD services.

SUPPLEMENTARY INFORMATION:

A. Background

The regulations governing the Even Start program (34 CFR part 212) were published in the *Federal Register* on March 23, 1989. Subpart F of those regulations, governing the Migrant Education Even Start program, was published in the *Federal Register* on May 25, 1989. These proposed amendments to the regulations reflect statutory changes to Even Start contained in the National Literacy Act of 1991 (Pub. L. 102-73). In accordance with the statutory changes, these regulations: (1) Make community-based organizations, in cooperation with local educational agencies, eligible to apply for grants (§§ 212.2 and 212.6); (2) expand eligibility for Even Start funds to include Indian tribes, tribal organizations, and the Nation's insular areas (territories) (§ 212.2); (3) expand the age of children eligible for Even Start to include those from birth through age 7 (§ 212.7); (4) provide that families that otherwise would be ineligible due to one or more participants having become ineligible under the statute may continue to participate until all family members become ineligible (§ 212.7); (5) revise the selection criteria for making discretionary grants to eligible entities (§ 212.21); (6) provide a method for applying the priorities contained in the amendments to the discretionary grant selection process (§ 212.21); (7) specify conditions for waiving the requirement relating to the source of the local contribution of funds (§ 212.25); (8) contain provisions regarding State administration of the program, which will begin in fiscal year (FY) 1992 (§§ 212.30-212.34); and (9) make conforming changes to regulations governing the Migrant Education Even Start program (§§ 212.50-212.58).

Even Start supports AMERICA 2000, the President's strategy to help America move toward achieving the six National Education Goals. Because it integrates early childhood education and adult education by involving parents who have limited basic education skills in the education of their young children, Even Start helps States and localities directly address two of the National Education Goals. Goal 1 calls for all children in America to start school ready to learn. An objective of Goal 1 is for every parent to be a child's first teacher, to devote time each day to helping his or her preschool child learn, and to have access to training and support. Even Start also contributes to achieving Goal 5—that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global

economy and exercise the rights and responsibilities of citizenship.

These proposed regulations are necessary to bring current regulations into conformity with legislative amendments, and to establish procedures that will govern the program when it becomes State-administered in FY 1992.

B. Issues

Priority Points

The proposed regulations would implement the new requirement in section 1057 of the statute that certain applicants be given priority when applying for grants. That provision requires that the review panel appointed by the Secretary or the State, as the case may be, give priority to the following applicants: (1) Those that demonstrate a high degree of need for Even Start services in the area to be served; and (2) those that demonstrate an ability to operate an effective program.

In the amendments to the Even Start law, the Congress also included the first factor (need) as one of the regular selection criteria. The second factor is similar to an existing selection criterion that judges an applicant's likelihood of success in meeting the Even Start goals. Therefore, in § 212.21 of the proposed regulations, the Secretary proposes to implement the priorities by assigning additional points to applicants as follows:

1. For the first factor, "need," the Secretary would assign 10 additional points to applicants that demonstrate a severity of need, by substantial objective documentation, using several of the need-related indicators contained in § 212.21(b).

2. For the second factor, "ability to operate," the proposed regulations would first add a new subelement to § 212.21(a), "Likelihood of Success in Meeting the Even Start Goals." The subelement would give five points for: (1) Objective evidence that the eligible entity has had past success in operating programs that served any or all of the Even Start target groups (adults, young children, or families); or (2) information supporting the applicability of a certain model to the local site, with descriptions of the model and its proposed implementation (§ 212.21(a)(1)(viii)). In cases where the applicant is a nonprofit organization, evidence of past success may be provided by its collaborating local educational agency (LEA).

The five points added to paragraph (a) of § 212.21 would be taken from paragraph (e), "Promise as a Model." The points for the subelements in

paragraph (e) would be changed as follows: (1) Evaluation plan—from 8 to 5 points; (2) basis of project components—from 5 to 3 points; and (3) willingness to serve as a model—remains at 2 points.

For the priority points, the review panel would assign 10 additional points to applicants that receive 35 or more points out of the 40 points now possible under § 212.21(a) of the regulations, and, in addition, receive 5 points on the new subelement (§ 212.21(a)(1)(viii)) if based on evidence of past success in operating a program. An applicant providing information concerning implementation of a model, rather than evidence of past success, can receive up to five points on the new subelement, but would not qualify for the ten priority points.

State Requirements

Section 212.30 (a) and (b) of the proposed regulations would require that, in order for a State to receive funds for the first three fiscal years in which the program is State-administered, it must submit a State plan to the Secretary. State plans are needed to insure full understanding and implementation of Even Start statutory and administrative requirements that govern the program after it converts from Federal to State operation. State plans would provide a systematic means for communication between the Department and each State about those requirements and would help the Department provide appropriate technical assistance to all States. The Department discourages States from filing lengthy documents. A concise plan outlining the basis elements requested will suffice.

After the three-year period, it is expected that State plans would no longer be as necessary. Thereafter, as proposed in § 212.30(c), States would be required only to file appropriate assurances with the Department.

The proposed regulations require that States submit the reports and information as the Secretary may require (§ 212.33). The Secretary plans to develop a performance report form specific to Even Start that States will submit annually. The performance report would ask for information on various aspects of program operations, such as information about subgrant awards, services provided, numbers of children and adults served, information concerning the amount of funds spent on State administration and technical assistance, and outcomes achieved.

The proposed regulations also contain provisions that would govern State procedures for awarding subgrants. Section 1052(b) of the amended statute requires that States make subgrants of

at least \$75,000 each. Sections 212.31 and 212.32 of the proposed regulations would require that, in addition, subgrants be of sufficient size, scope, and quality to give reasonable promise of meeting the purposes of Even Start. The Secretary proposes this requirement to emphasize the fact that the statutory minimum should not also be used as a maximum, and that subgrant awards should be large enough to help ensure successful Even Start projects.

For continuation awards, to ensure a smooth transition and avoid overlapping Federal and State grants in FY 1992 when Even Start converts to a State program, the beginning date of an award made by a State should be the day after the expiration of the Federal grant. In the event that the Federal project grant ends before a State grant begins, a grantee may request an extension of the Federal grant period from the Department.

Applicability of General Chapter 1 Provisions

The Even Start program is contained in part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (chapter 1). Several of the provisions in parts E and F of chapter 1 will affect the States in their administration of the Even Start program. Others are inapplicable to Even Start. Those that do apply to Even Start, and are directed to the States rather than the Department, are identified in § 212.34 of the proposed regulations.

Section 1404 of the Act (Payments for State Administration) concerns payments to the States for performance of their duties under chapter 1. These funds may be used for administration of Even Start, if needed, in addition to the five percent of Even Start funds that the State is authorized to use under section 1052(b) of the Act.

Section 1432(b) of the Act (Availability of Appropriations), containing limitations on carryover of funds, does not apply to Even Start. This provision is interpreted to apply only to basic and concentration grants under the chapter 1 LEA program. Those grants are distributed to LEAs by formula. The carryover limits were designed to provide yearly consistency of expenditures among those LEAs that have an expectation of yearly funding. Because Even Start is a discretionary program with funds made available to eligible entities on a competitive basis, eligible entities receiving funds have no legitimate expectation of continuation of funding. Therefore, carryover limits do not apply.

The "Tydings" provision in section 412(b) of the General Education Provisions Act (Availability of Appropriations on Academic or School Year Basis) does, however, apply to Even Start when the program is State-administered, so that Even Start funds that States receive will remain available for obligation during the fiscal year succeeding the fiscal year for which they are appropriated. States may allow eligible entities to carry over unobligated funds from State grants for the remaining time available, and reduce the amount of future awards by the carryover amount.

Section 1438 of the Act (Application of General Education Provisions Act), providing that the General Education Provisions Act (GEPA) applies except for certain superseded or excepted provisions, applies to Even Start. Note that, even though section 436 of GEPA, governing LEA applications to the State, is mostly inapplicable, section 1056 of the Even Start statute specifically requires eligible entities to submit applications to States containing the detailed information listed in the statute.

Section 1451 of the Act (State Regulations), which requires, among other things, that a Committee of Practitioners review any proposed State rules governing the program, applies to Even Start as well. The proposed regulations in § 212.5(b)(10) adopt the regulation in 34 CFR 200.70 interpreting and implementing the provisions of section 1451. However, some provisions of 34 CFR 200.70 are not appropriate for Even Start and are excepted. Although some States may wish to use, for Even Start, the same Committee of Practitioners already in place for the basic LEA program, others may wish to develop a committee solely for Even Start. States are encouraged to consider, in addition to the committee members required by statute, persons knowledgeable about the various aspects of education that Even Start addresses: adult education, family literacy, and early childhood education.

Section 1453 (Assignment of Personnel) applies to the extent that Even Start personnel are paid entirely with Even Start funds and perform their duties in an elementary school setting, i.e., teach Even Start children in kindergarten through grade 12 in a public school. For this Even Start purpose, § 212.5(b)(10) of the proposed regulations adopts the regulation in 34 CFR 200.39 that interprets the statutory requirements.

Applicability of Certain of the Education Department General Administrative Regulations

Section 212.5 of the proposed regulations lists those sections of part 76 of the Education Department General Administrative Regulations (EDGAR) that do not apply to Even Start. In addition, the Department plans to amend part 76 to include Even Start as a program covered by 34 CFR 76.102 (Definition of "State plan" for Part 76), and 34 CFR 76.125 (What is the purpose of these regulations?) governing consolidated applications from insular areas.

The proposed regulations provide that Part 80 of the EDGAR will continue to apply to Even Start when the program is State-administered.

Allocation of Funds—Migratory Children, Indian Tribes and Organizations, and Territories

In fiscal years for which Congress appropriates \$50 million or more, section 1053 of the statute, as amended, requires the Secretary first to reserve five percent of the Even Start appropriation for migratory children, the territories (Guam, American Samoa, the Virgin Islands, Northern Mariana Islands and Palau), and Indian tribes and tribal organizations, to be allocated according to their relative need. The amount reserved for programs for migratory children must be at least the amount reserved in the preceding fiscal year.

A review of data available on which to base relative need among the three groups has yielded only one data set on which common information is available: The number of school-aged children (ages 5-17) in each group. Reliable data on the number of children ages birth through seven (the group of children eligible to be served under the statute), are not available for all three groups. The Secretary assumes that the number of children in these groups ages birth through seven is likely to be proportional to the number of children ages 5-17. The Secretary recognizes that, as groups, children who are migratory, Indian, or residents of the territories all have substantial need for Even Start program services, and that use of child-count data alone to determine how the five percent set-aside should be apportioned among these groups is less than ideal. However, the Secretary proposes to use the 5-17 child count because it appears to be the best available proxy for "need," given the substantial difficulty in obtaining, for these groups, other reliable and comparable data for need-related

indicators such as poverty, illiteracy, and unemployment.

In estimating the number of children ages 5-17 in each group, the Secretary will use the most recent data that are available. In determining the set-aside for each group, the Secretary plans to apply these child-count figures proportionately to the five percent set-aside and round to the nearest half percent. By doing so, for FY 1992, three percent of the Even Start appropriation would be reserved for programs for migratory children (the same as the statutorily required reservation when the program is federally administered); one and one-half percent would be reserved for programs for Indian tribes and tribal organizations; and one-half percent would be reserved for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and Palau. When the underlying data yield different percentages or better measures of relative need become available, the Secretary will notify the public of the new allocation percentages.

Funds reserved for Indian tribes and tribal organizations would be competitively awarded. The Secretary would apply the regular Even Start selection criteria contained in the regulations that include "need" as one of the factors (§ 212.23(a)). Migrant Education Even Start funds would also be awarded competitively, with selection criteria modified as described in the following section. Funds reserved for the territories would be allocated to them in proportion to each territory's Chapter 1 basic grant (§ 212.23(b)). Territories could either submit a consolidated grant application or submit a State plan for the first three fiscal years of State administration.

Migrant Education Even Start Program

Proposed subpart F of the Even Start regulations would modify the existing regulations for the Migrant Education Even Start program to reflect both the new statutory requirements in the National Literacy Act of 1991 as they would apply to a program for migratory children and their parents, and technical changes that are needed in the subpart F regulations. For clarity, the following discussion focuses first on significant differences between regulations that would govern the regular Even Start program and those that would govern the Migrant Education Even Start program.

Under §§ 212.51 and 212.57(b), as proposed, the Secretary would continue to make grants on a competitive basis to State educational agencies (SEAs) (as has been the practice since the Even

Start program began). SEAs may then make subgrants to eligible entities that include local operating agencies or institutions for Even Start projects that serve migratory children and parents. The principal change involves selection criteria.

First, § 212.55(a) would tailor the criterion contained in § 212.21(b), as proposed (Need for the project), to emphasize that a State's need for a Migrant Education Even Start project depends on the relative numbers or percentages of currently migratory children and parents who reside in the area to be served for the period of time the project would operate. As with the regular Even Start program, a high need for Migrant Education Even Start services could be shown by comparison with other areas of the State or the Nation as a whole. Defining need in this way would permit applications from those "receiving" States in which large numbers or high percentages of migratory children and parents reside for only a portion of the calendar year to be evaluated fairly alongside applications from the "sending" States in which currently migratory children and parents reside for most of the year.

Second, § 212.55(b) would alter the regular Even Start application's description of interagency planning, contained in § 212.21(c)(2) (Degree of cooperation and coordination), to reflect the overall requirements in § 212.50(b) that Migrant Education Even Start projects provide services on an interstate or intrastate basis.

Third, § 212.55(c), which identifies the number of points that may be awarded to applicants under each Migrant Education Even Start selection criterion, would assign values to several of the criteria that differ from those provided under the regular Even Start program. Rather than provide for priority points, as would § 212.21(b)(3) (Need for the project), § 212.55(c)(2) simply would assign up to 20 points for this criterion. In addition, in view of the particular importance of awarding Migrant Education Even Start grants to applicants whose projects show promise as a model, § 212.55(c) would continue to provide applicants up to 20 points, rather than the 10 points in § 212.21(e), for projects that are expected to meet this criterion. In order for the total number of points that may be awarded under the Migrant Education Even Start program to be 120, as under the regular Even Start program, § 212.55(c)(1) would reduce from 40 to 32 the number of points that may be awarded under the criterion. Likelihood of success in meeting the Even Start goals. Similarly,

§ 212.55(c)(4) would reduce from ten to eight the number of points that may be awarded for the criterion, Reasonableness of budget.

Proposed subpart F also would make several technical changes in existing regulations for the Migrant Education Even Start program. First, §§ 212.52 and 212.53(b) would adopt the new requirements proposed for the regular Even Start program in §§ 212.7 and 212.25 regarding expanded eligibility and waiver of the source of local contribution. Section 212.54(b) would change the maximum number of points that can be awarded under the Migrant Education Even Start selection criteria to 120. Under § 212.56(a)(2), like its counterpart in § 212.22(a)(1) of the proposed regulations in the regular Even Start program, the Secretary would ensure that, in awarding new grants, projects will build on existing community resources to create services that integrate the early childhood and adult education components into a unified program. In addition, §§ 212.57(a)(4) and 212.58 would clarify that the SEA may make subgrants to an eligible entity that includes, for purposes of Migrant Education Even Start, any agency that could receive Migrant Education Program funds under 34 CFR part 201.

Finally, in keeping with the requirement in section 1052(b)(3) of the Act that States use no more than five percent of their Even Start grants for the costs of administration and technical assistance when the program is State-administered, § 212.58(b) would apply this same limitation to SEAs that subgrant the operation of a Migrant Education Even Start program to an eligible entity.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

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.

The small entities that would be affected by these proposed regulations are small LEAs and community-based organizations receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal

supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 212.10, 212.11, 212.12, 212.13, 212.21, 212.22, 212.25, 212.30, 212.32, 212.33, 212.53, and 212.55 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

States and territories are required, for three years, to submit a State plan under these regulations. The Department needs and uses the information to facilitate the Department's oversight of the program with regard to the States' compliance with the statute and regulations. Annual public reporting burden for this collection of information is estimated to average 15 hours per response for 57 respondents (who meet the definition of a State or territory for purposes of Even Start), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

For purposes of the Migrant Education Even Start program, annual public reporting burden for this collection of information is estimated to average 17.33 hours per response for 60 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. In addition, for Indian tribes that will submit applications for discretionary grants, the annual public reporting burden for this collection of information is estimated to average 20 hours per response for 30 respondents, including 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, room 3002, New Executive Office Building, Washington, DC 20503. Attention: Daniel J. Chenok.

Intergovernmental Review

When this program is administered by the Secretary as a direct grant program, it is subject to the requirements of Executive Order 12372 and the

regulations in 34 CFR part 79. The Migrant Education Even Start program is also subject to these requirements. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. The Secretary is particularly interested in views concerning: (1) The proposed application of the statutory priorities to the selection process; (2) the proposed use of the child-count data, described in the preamble, to allocate funds among Indian tribes and tribal organizations, territories, and projects serving migratory children; (3) the proposed three-year requirement of a State plan; and (4) whether the territories should be permitted to make subgrants.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 2043, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 212

Adult education, Education, Education of disadvantaged children, Elementary and secondary education, Family, Family-centered education, Grant program—education, Indians—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.213, The Even Start program)

Dated: February 21, 1992.

Lamar Alexander,
Secretary of Education.

The Secretary proposes to amend chapter II, title 34 of the Code of Federal Regulations by revising part 212 to read as follows:

PART 212—EVEN START**Subpart A—General**

Sec.

- 212.1 What is the Even Start program?
 212.2 Who is eligible for a grant?
 212.3 What activities may the Secretary or States fund?
 212.4 What is the duration of a project?
 212.5 What regulations apply?
 212.6 What definitions apply?
 212.7 Who are eligible participants in an Even Start project?

Subpart B—How Does an Applicant Apply for a Grant?

- 212.10 To whom does an eligible entity submit an application?
 212.11 What requirements apply to eligible entities for submitting an application to the Secretary for a new grant?
 212.12 How does an Indian tribe or tribal organization apply for assistance?
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Subpart C—How Does the Secretary Make a Grant?

New Grants

- 212.20 How does the Secretary evaluate an application from an eligible entity for a new grant?
 212.21 What selection criteria are used in making new grants to eligible entities?
 212.22 What additional factors does the Secretary consider in making new grants to eligible entities?
 212.23 How does the Secretary make a grant to Indian tribes and tribal organizations, and to territories?
 212.24 What is the portion of an Even Start grant that eligible entities are required to contribute?
 212.25 When may the Secretary waive the requirement concerning the source of the local contribution of funds?

Continuation Awards

- 212.26 How does the Secretary make continuation awards if there are insufficient appropriations to fund all requests fully?
 212.27 What actions may the Secretary take if a grantee does not make sufficient progress toward meeting its projects objectives?

Subpart D—State Administration

- 212.30 How does a State apply for Even Start funds?
 212.31 What requirements must a State meet in making subgrants?
 212.32 What selection criteria does a State use in making new subgrants?
 212.33 What reporting requirements apply to States?
 212.34 Which of the general Chapter 1 provisions apply to States in their administration of Even Start?

Subpart E—Transition Provisions

- 212.40 How are grants made when responsibility for making grants to applicants transfers between the Department and the SEAs?

Subpart F—Migrant Education Even Start

- 212.50 What is the Migrant Education Even Start program?
 212.51 Who is eligible for a grant?
 212.52 Who may be served?
 212.53 What applications does the Secretary consider?
 212.54 How does the Secretary evaluate an application for a new grant?
 212.55 What selection criteria does the Secretary use in making new grants?
 212.56 What additional factors does the Secretary consider in making new grants?
 212.57 What other provisions in this part apply?
 212.58 May an SEA make a subgrant to an eligible entity?

Authority: 20 U.S.C. 2741–2749, 2831, unless otherwise noted.

Subpart A—General**§ 212.1 What is the Even Start program?**

(a) The Even Start program grants funds for the Federal share of the cost of providing family-centered education projects to help parents become full partners in the education of their children, to assist children in reaching their full potential as learners, and to provide literacy training for their parents.

(b) The Secretary implements the Even Start program by assisting cooperative projects that build on existing community resources to create a new range of services, integrating early childhood education and adult education for parents.

(Authority: 20 U.S.C. 2741, 2744(a))

§ 212.2 Who is eligible for a grant?

(a) If the Secretary makes direct grants under section 1052(a) of the Act, the Secretary makes grants to—

- (1) Eligible entities or consortia of eligible entities;
- (2) Territories; and
- (3) Indian tribes and tribal organizations.

(b) If the Secretary makes grants to States under section 1052(b) of the Act—

- (1) The Secretary provides funds to—
 - (i) States through their respective State educational agencies (SEAs);
 - (ii) Territories; and
 - (iii) Indian tribes and tribal organizations; and
- (2) States make subgrants to eligible entities.

(Authority: 20 U.S.C. 2742)

§ 212.3 What activities may the Secretary or States fund?

The Secretary or each SEA, as the case may be, funds family-centered education projects that comply with section 1054 of the Act, and that include

all of the program elements required by section 1054(b) of the Act.

(Authority: 20 U.S.C. 2744)

§ 212.4 What is the duration of a project?

No project operated by an eligible entity may exceed four years.

(Authority: 20 U.S.C. 2747(d))

§ 212.5 What regulations apply?

The following regulations apply to the Even Start program:

(a) When the Secretary makes direct grants under section 1052(a) of the Act, the following parts of the Education Department General Administrative Regulations (EDGAR):

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations) for grants to nonprofit organizations.

(2) 34 CFR part 75 (Direct Grant Programs) except for grants to territories.

(3) CFR part 76 (State-Administered Programs) for grants to territories.

(4) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) for grants to State and local governments (including territories), and Indian tribes and tribal organizations.

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug-Free Schools and Campuses) for grants to institutions of higher education, SEAs, LEAs, and territories.

(b) When the Secretary makes grants under section 1052(b) of the Act, the following parts of EDGAR and sections of 34 CFR part 200 (for grants to States):

(1) 34 CFR part 75 (Direct Grant Programs) for grants to Indian tribes and tribal organizations, and to SEAs under subpart F of this part.

(2)(i) 34 CFR part 76 (State-Administered Programs) for grants to States and territories, except for the following sections:

(A) Section 76.301 (Local educational agency general application).

(B) Sections 76.560 through 76.563 (Indirect Cost Rates).

(C) Section 76.684 (Day care services).

(ii) In addition, after the first three consecutive fiscal years in which section 1052(b) of the Act applies, the following sections also do not apply:

(A) Sections 76.100 through 76.106 (State Plans and Applications);

(B) Sections 76.140 through 76.142 (Amendments);

(C) Section 76.201 (A State plan must meet all statutory and regulatory requirements); and

(D) Section 76.202 (Opportunity for a hearing before a State plan is disapproved).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for grants to States and territories.

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

(8) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug Free Schools and Campuses).

(10) The following sections of 34 CFR part 200 for grants to States:

(i) Section 200.39 (How may personnel be assigned non-chapter 1 duties?), with the term "chapter 1" interpreted as "Even Start."

(ii) Section 200.70 (Does a State have authority to issue State regulations for the chapter 1 LEA program?), with the term "chapter 1" interpreted as "Even Start," and "this part" interpreted as "part 212," except for the following:

(A) Section 200.70(c)(1).

(B) Section 200.70(e)(3)(i)(E) and (e)(3)(iii).

(iii) Section 200.73 through 200.75 (Complaint Procedures of the SEA), with the term "chapter 1 LEA program" interpreted as "Even Start."

§ 212.6 What definitions apply?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 1471 of the Act: Community-based organization, Elementary school, Equipment, Local educational agency, Parent, Secretary, State educational agency.

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

Facilities, Fiscal year, Grant, Grant period, Grantee, Nonprofit, Project.

(c) *Other definitions.* The following definitions also apply to this part:

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

Eligible entity means—(i) An LEA applying in collaboration with a community-based organization, public agency, institution of higher education, or other nonprofit organization; or (ii) A community-based organization or other nonprofit organization of demonstrated quality applying in collaboration with an LEA.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 *et seq.*) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

State means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Territory means Guam, America Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the compact of Free Association with Palau takes effect pursuant to section 101(a) of Pub. L. 99-658).

Tribal organization means the recognized governing body of any Indian tribe, and any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or is democratically elected by the adult members of the Indian community to be served by the organization and that includes the maximum participation of Indians in all phases of its activities.

(Authority: 20 U.S.C. 2742(d), 2743, 2891(a))

§ 212.7 Who are eligible participants in an Even Start project?

(a) Except as provided in paragraph (b) of this section, eligible participants are—

(1) A parent of a child described in paragraph (a)(2) of this section, if the parent is eligible for participation in an adult education program under the Adult Education Act, 20 U.S.C. 1201a(1) and (2); and

(2) A child, from birth to age 7, inclusive, of any eligible parent, who resides in an elementary school attendance area designated for participation in programs under part A of chapter 1 of title I of the Act.

(b)(1) A family that has been participating in an Even Start program and would become ineligible for participation as a result of one or more family members becoming ineligible may continue to participate in the program until all family members become ineligible.

(2) In the situation described in paragraph (b)(1) of this section, any family member who would be ineligible under paragraph (a) of this section may continue to participate in appropriate family literacy activities, provided that projects may not provide these family members special activities different from those already provided for other Even Start participants.

(Authority: 20 U.S.C. 2745)

Subpart B—How Does an Applicant Apply for a Grant?

§ 212.10 To whom does an eligible entity submit an application?

An eligible entity shall submit an application to the Secretary under section 1052(a) of the Act, in the form required by the Secretary, or to the SEA under section 1052(b) of the Act, in the form required by the SEA, as the case may be.

(Authority: 20 U.S.C. 2746(a))

§ 212.11 What requirements apply to eligible entities for submitting an application to the Secretary for a new grant?

Before submitting an application to the Secretary for a new grant under section 1052(a) of the Act, an eligible entity shall—

(a) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(b) Hold the open meeting; and

(c) Consider comments obtained at the meeting in developing the final application.

(Authority: 20 U.S.C. 3386)

§ 212.12 How does an Indian tribe or tribal organization apply for assistance?

An Indian tribe or tribal organization shall submit an application to the Secretary in the form required by the Secretary.

(Authority: 20 U.S.C. 2743(a))

§ 212.13 How does a territory apply for assistance?

A territory shall—

(a) For the first three consecutive fiscal years in which section 1052(b) of the Act applies, submit a State plan to

the Secretary in accordance with 34 CFR part 76 and subpart D of this part; or
 (b) Submit a consolidated grant application to the Secretary in accordance with the provisions in 34 CFR part 76.

(Authority: 20 U.S.C. 2743(a), 48 U.S.C. 1469(a))

Subpart C—How Does the Secretary Make a Grant? New Grants

§ 212.20 How does the Secretary evaluate an application from an eligible entity for a new grant?

(a) *Review Panel.* (1) The Secretary appoints a panel to review applications in accordance with section 1057 of the Act.

(2)(i) The panel evaluates an application for a new grant on the basis of the criteria in § 212.21.

(ii) The panel gives up to 120 points for these criteria.

(iii) The maximum possible score for each complete criterion in § 212.21 is indicated in parentheses.

(3) The panel indicates whether the applicant has adequately demonstrated its ability to provide the additional funding required by section 1054(c) of the Act.

(b) *Additional factors.* The Secretary then applies the additional considerations in § 212.22 to make grants.

(Authority: 20 U.S.C. 2747)

§ 212.21 What selection criteria are used in making new grants to eligible entities?

The following criteria are used to evaluate an application for a new grant to an eligible entity:

(a) *Likelihood of success in meeting the Even Start goals* (40 total points plus possible 10 priority points). (1) The Secretary reviews each application to determine the extent to which the proposed project will provide a family-centered education program that includes activities to promote literacy of participating parents, train parents to support the educational growth of their children, and prepare children for success in regular school programs. In applying this criterion the Secretary determines the extent to which the project described in the application—

(i) Contains clear, attainable, measurable objectives against which the progress and success of the project will be measured (5 points);

(ii) Includes appropriate activities, services, and timelines to achieve those objectives (5 points);

(iii) Designates responsibilities to specific personnel who are qualified to administer and implement the project and to provide special training

necessary to prepare staff for the program (5 points);

(iv) Includes an effective plan to ensure proper and efficient administration of the project (5 points);

(v) Is based on sound research in the areas of early childhood education, adult literacy, and parenting education (5 points);

(vi) Contains instructional and developmental activities appropriate to the level of the participants to be served (5 points);

(vii) Provides for continuity of services to maintain progress by, for example, providing continuous services through the summer months (5 points); and

(viii) Provides—
 (A) Objective evidence, including quantitative data on the educational and related outcomes of the program, that the applicant, or its collaborating LEA, has had past success in operating a literacy program, an adult education program, an early childhood education program, or a parenting education program; or

(B) A description of the specific family literacy model that the applicant proposes to implement (including quantitative data on the model's effectiveness), information supporting the applicability of the model to the local site, and a detailed description of how the model will be implemented in the proposed project (5 points).

(2) The Secretary gives 10 additional points to applicants that—

(i) Receive at least 35 out of 40 points under paragraph (a) of this section; and

(ii) Receive 5 points under paragraph (a)(1)(viii) of this section, based on paragraph (a)(1)(viii)(A) of this section (0 or 10 points).

(Authority: 20 U.S.C. 2744(b)(7), 2747, 2831(a))

(b) *Need for the project* (10 points plus possible 10 priority points). (1) The Secretary reviews each application to determine the extent to which the applicant demonstrates that the area to be served has a high percentage or large number of children and parents in need of Even Start services.

(2) For purposes of paragraph (b)(1) of this section, need for Even Start services must be shown by demonstrating the following:

(i) High levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators. High levels of need may be shown by comparison with other areas of the State or the United States.

(ii) The unavailability of comprehensive family literacy services for the target population that could be provided by other programs. If similar

programs serve the same population, applicants may provide evidence of waiting lists or other indicators that local demand exceeds the ability of those programs to meet the needs.

(3) The Secretary gives 10 additional points to applicants providing substantial objective documentation of need in more than one of the indicators listed in paragraph (b)(2)(i) of this section (0 or 10 points).

(c) *Degree of cooperation and coordination* (30 total points). The Secretary reviews each application to determine the extent to which cooperation and coordination will take place in all phases of the proposed project among a variety of relevant service providers, including those funded under the programs listed in section 1054(b)(7) of the Act. The Secretary considers the extent to which—

(1) The applicant has made a survey of all relevant providers and is fully aware of similar and related services, including State and locally funded programs, being provided to eligible children and adults (5 points);

(2) The applicant has, in planning the project, engaged various providers in discussions that have resulted in firm agreements for specific cooperative activities (10 points);

(3) The plan of operation includes specific provision for additional cooperative efforts with other service providers, including State and locally funded providers, throughout the duration of the project (5 points); and

(4) Services offered by the applicant will build upon, but not duplicate, those being provided to project participants by the applicant or other service providers (10 points).

(d) *Reasonableness of budget* (10 points). The Secretary reviews each application to determine the extent to which the budget submitted for the entire cost of the proposed project appears reasonable, given the scope of the project. The Secretary considers the extent to which—

(1) Costs are reasonable in relation to expected outcomes;

(2) The applicant will make use of currently available resources such as facilities and equipment; and

(3) The budget provides sufficient information to support the requested amount of funds.

(e) *Promise as a model* (10 total points). The Secretary reviews each application to determine the extent to which the proposed project shows promise in providing a model that may be transferred to other eligible entities.

The Secretary considers the extent to which—

- (1) The preliminary evaluation plan described in the application—
 - (i) Measures the progress and success of the project in achieving its clearly stated and attainable objectives;
 - (ii) Utilizes concrete and quantifiable means of measurement; and
 - (iii) Includes, if possible, comparisons with appropriate control groups (5 points);
- (2) The general components of the project are readily understandable and usable by other entities, and are based on research or models that have proven to be adaptable to various circumstances (3 points); and
- (3) The applicant shows a willingness to serve as a model and to disseminate detailed information about the project to the Department and to other eligible entities (2 points).

(Authority: 20 U.S.C. 2744(b)(7), 2747, 2831(a))

§ 212.22 What additional factors does the Secretary consider in making new grants to eligible entities?

- (a) The Secretary, in approving grants to eligible entities, ensures that—
 - (1) Each project builds on existing community resources in a cooperative effort to create a new range of services integrating early childhood education and adult education for parents into a unified program; and
 - (2)(i) Grants are made to eligible entities that are representative of urban and rural regions of the United States.
 - (ii) Grant funds are distributed equitably among the States and among urban and rural areas of the United States.
 - (b)(1) For purposes of this section, urban eligible entities are those within Metropolitan Areas (MAs), as most recently designated by the United States Department of Commerce, Bureau of Census, and rural eligible entities are those outside the boundaries of MAs.
 - (2) If an eligible entity includes areas both within and outside of an MA, the applicant shall designate the category in which the majority of expected participants reside.
 - (c) To the extent that acceptable applications are received from the various States, the Secretary does not give grants to eligible entities in one State in amounts that, in total, exceed the amount that the State would be allocated under section 1053(b) of the Act if the appropriation for the Even Start program equals \$50 million.

(Authority: 20 U.S.C. 2741, 2747(a)(1)(F), (c), (d)(2))

§ 212.23 How does the Secretary make a grant to Indian tribes and tribal organizations, and to territories?

- (a)(1) The Secretary provides funds to Indian tribes and tribal organizations by making grants based on applications submitted under § 212.12.
- (2) The Secretary applies the following sections of this part in making new grants to Indian tribes and tribal organizations:
 - (i) Section 212.20, with the exception of § 212.20(a)(2).
 - (ii) Section 212.21.
 - (iii) Section 212.22(a)(1).
- (b)(1) The Secretary provides funds to the territories by making grants based on applications submitted under § 212.13, according to the relative need of each territory.
- (2) The relative need of each territory is considered to be in proportion to the amount of funds received by the territory under part A of chapter 1 of title I of the Act.

(Authority: 20 U.S.C. 2743(a))

§ 212.24 What is the portion of an Even Start grant that eligible entities are required to contribute?

- (a) An Even Start grant to an eligible entity is comprised of a Federal portion of funds and a portion contributed by the eligible entity.
- (b) The eligible entity's portion of an Even Start grant is—
 - (1) In the first year of the project's funding, at least 10 percent of the total cost of the project;
 - (2) In the second year of the project's funding, at least 20 percent of the total cost of the project;
 - (3) In the third year of the project's funding, at least 30 percent of the total cost of the project.
 - (4) In the fourth year and any subsequent year of the project's funding, at least 40 percent of the total cost of the project.
- (c) The eligible entity's portion may be obtained from any source other than funds made available for programs under Chapter 1 of Title I of the Act, and may be provided in cash or in kind, fairly evaluated.

(Authority: 20 U.S.C. 2744)

§ 212.25 When may the Secretary waive the requirement concerning the source of the local contribution of funds?

- The Secretary may waive in whole or in part the requirement that the local share of the cost of the project be obtained from sources other than funds under chapter 1 of title I of the Act if—
- (a) An eligible entity demonstrates that, due to its own financial situation and the lack of any other sources of funding—

(1) It otherwise would not be able to conduct an Even Start project; or

(2) It otherwise would not be able to continue its project at the level previously maintained, if it is a grantee applying for a continuation grant;

(b) The demonstration required by paragraph (a) of this section is supported by detailed financial data and is accompanied by a signed statement from a responsible official that all possible sources of funding, including cooperating entities, have been explored;

(c) The applicant designates the specific funds under chapter 1 of the title I of the Act that it intends to use for its local share; and

(d) The applicant negotiates an agreement with the Secretary with respect to the amount of the local contribution to which the waiver would be applicable.

(Authority: 20 U.S.C. 2744(c))

§ 212.26 How does the Secretary make continuation awards if there are insufficient appropriations to fund all requests fully?

(a) If funds are insufficient for the Secretary to fund all continuation requests in the amounts at which each request would otherwise be funded ("approvable grant" amounts), the Secretary reduces the approvable grant amounts for continuation requests on a pro rata basis.

(b) The Secretary does not reduce funding for a project for any fiscal year more than 25 percent below its approvable grant amount, subject to paragraph (c) of this section.

(c) If funds are insufficient to fund all continuation awards at 75 percent of their approvable grant amounts, the Secretary—

(1) Ranks all continuation requests based on the criteria in § 212.21, taking into account information collected throughout the project period, including yearly progress reports, the application submitted in the first year, and revisions to that application; and

(2) Funds continuation requests, based on that rank ordering, at 75 percent of approvable grant amounts until funds are exhausted.

(d) If the ranking procedure in paragraph (c) of this section does not result in the distribution of awards consistent with the requirements of § 212.22(a), the Secretary adjusts the selection process so as to meet those requirements.

(Authority: 20 U.S.C. 2831(a))

§ 212.27 What actions may the Secretary take if a grantee does not make sufficient progress toward meeting its project objectives?

If the Secretary finds, after the first, second, or third year of a project, that the grantee has not made sufficient progress toward meeting its project objectives, the Secretary may—

(a) Approve revisions to the project, proposed by the grantee, if those revisions would enable the grantee to meet its project objectives; or

(b) After affording the grantee notice and an opportunity for a hearing, refuse to make a continuation award to the grantee for that project.

(Authority: 20 U.S.C. 2747(d)(1))

Subpart D—State Administration

§ 212.30 How does a State apply for Even Start funds?

(a) In order to receive assistance for the first fiscal year in which section 1052(b) of the Act applies, a State must provide to the Secretary a State plan, that must include the following:

(1) The certifications required by 34 CFR 76.104.

(2) A description of the selection criteria to be used in making subgrants to eligible entities if the State does not adopt the selection criteria in § 212.21.

(3) A description of how the SEA will coordinate Even Start activities with appropriate offices at the State level, including the following:

(i) Those dealing with adult education and early childhood education.

(ii) Those administering the Federal programs listed in section 1054(b)(7) of the Act.

(iii) Other appropriate Statewide organizations, such as Statewide literacy councils.

(4) A description of how the State will ensure, through such means as monitoring, that grantees will meet the requirements of sections 1054–1057 of the Act.

(5) An assurance that the State will meet the requirements in section 435(b)(2) and (5) of the General Education Provisions Act (GEPA) relating to fiscal control and fund accounting procedures.

(6) An assurance that the State will comply with all applicable Federal laws in implementing the program.

(b) In order to receive assistance for the second and third consecutive fiscal years in which section 1052(b) of the Act applies, a State shall submit to the Secretary an update or amendment to the plan submitted under paragraph (a) of this section, if there have been any changes to information submitted in that plan.

(c) In order to receive assistance for the fourth and following fiscal years in which section 1052(b) of the Act applies, a State shall submit to the Secretary assurances that it—

(1) Will coordinate Even Start activities with appropriate offices at the State level, including the following:

(i) Those dealing with adult education and early childhood education.

(ii) Those administering the Federal programs listed in section 1054(b)(7) of the Act.

(iii) Other appropriate Statewide organizations, such as Statewide literacy councils.

(2) Will ensure that its LEAs comply with all the applicable statutory and regulatory requirements.

(3) Will meet the requirements in section 435(b)(2) and (5) of GEPA relating to fiscal control and fund accounting procedures.

(4) Will comply with all applicable Federal laws in implementing the program.

(Authority: 20 U.S.C. 2747(d), 2831(a))

§ 212.31 What requirements must a State meet in making subgrants?

(a) Projects supported by subgrants must—

(1) Be funded at no less than \$75,000;

(2) Be of sufficient size, scope, and quality to give reasonable promise of meeting the purposes of Even Start; and

(3) Make maximum use of the resources available at the local level.

(b) Before making subgrants, a State must—

(1) Determine the effectiveness and financial needs of the currently funded projects within the State;

(2) Consider a current grantee to have an acceptable continuation application if—

(i) The grantee shows that it is making sufficient progress toward meeting the objectives of the project; and

(ii) The grantee meets applicable State requirements for continuation awards; and

(3) Determine, for each current grantee with an acceptable continuation application, an award amount that will ensure the project's continuity of services for the next fiscal year, provided that sufficient funds exist for the State to continue all projects.

(c)(1) A State may permit a grantee to retain funds from State grants that are unobligated by the grantee in one project year, in which case the SEA shall deduct from the subsequent year's continuation award an amount equal to the unobligated funds.

(2) After making continuation awards, the SEA shall use any remaining funds to make grants to new applicants, subject to paragraph (a) of this section.

(d) A State shall ensure a representative distribution of assistance between urban and rural areas of the State.

(Authority: 20 U.S.C. 2742(b), 2747(c)(2), (d)(2), 2831(a))

§ 212.32 What selection criteria does a State use in making new subgrants?

In making new subgrants under section 1052(b) of the Act, a State may—

(a) Apply the criteria contained in § 212.21; or

(b) Apply its own criteria, provided the criteria are consistent with section 1057 of the Act.

(Authority: 20 U.S.C. 2747)

§ 212.33 What reporting requirements apply to States?

In any fiscal year in which section 1052(b) of the Act applies, States shall annually report such information about program operations as may be required by the Secretary.

(Authority: 20 U.S.C. 1232f(a), 2852)

§ 212.34 Which of the general Chapter 1 provisions apply to States in their administration of Even Start?

The following sections of parts E and F of chapter 1 of title I of the Act apply to States in their administration of Even Start:

(a) Section 1404 of the Act (Payments for State Administration).

(b) Section 1433 of the Act (Withholding of Payments).

(c) Section 1434 of the Act (Judicial Review).

(d) Section 1438 of the Act (Application of General Education Provisions Act).

(e) Section 1451 of the Act (State Regulations).

(f) Section 1452 of the Act (Records and Information).

(g) Section 1453 of the Act (Assignment of Personnel), to the extent the Even Start personnel are paid entirely with Even Start funds and perform their duties in an elementary school setting.

(h) Section 1454 of the Act (Prohibition Regarding State Aid).

(i) Section 1471 of the Act (Definitions).

(Authority: 20 U.S.C. 2824, 2833, 2834, 2838, 2851–2854, 2891)

Subpart E—Transition Provisions**§ 212.40 How are grants made when responsibility for making grants to applicants transfers between the Department and the SEAs?**

When the responsibility for administering the Even Start program transfers from the Department to the SEAs, or vice versa—

(a) The Secretary applies—
(1) 34 CFR 75.253 with the exception of 34 CFR 75.253 (a)(2);

(2) Section 212.27; and
(3) Section 212.26, if necessary;
(b) A State applies §§ 212.31 and 212.32; and

(c) The Federal share limitations contained in section 1054(c) of the Act are determined from the original year of the project grant award.

(Authority: 20 U.S.C. 2747(d), 2831(a))

Subpart F—Migrant Education Even Start**§ 212.50 What is the Migrant Education Even Start program?**

(a) The Migrant Education Even Start program supports grants to eligible SEAs for the cost of providing family-centered education projects to help parents of currently migratory children (as defined in 34 CFR 201.3) become full partners in the education of their children, to assist currently migratory children in reaching their full potential as learners, and to provide literacy training for their parents.

(b) The Secretary makes grants for family centered education projects that provide services on an intrastate or interstate basis, and that include all of the program elements required by section 1054(b) of the Act.

(Authority: 20 U.S.C. 2741, 2743, 2831)

§ 212.51 Who is eligible for a grant?

An SEA or a consortium of SEAs that applies under section 1053(a) of the Act is eligible to receive a grant under the Migrant Education Even Start program.

(Authority: 20 U.S.C. 2743, 2831)

§ 212.52 Who may be served?

(a) Except as provided in paragraph (b) of this section, eligible participants under this subpart are—

(1) A parent of a child described in paragraph (b) of this section, if the parent is eligible for participation in an adult basic education program under the Adult Education Act, 20 U.S.C. 1201(a)(1) and (2); and

(2)(i) As a first priority, a currently migratory child, as defined in 34 CFR 201.3, from birth to age 7, inclusive; and

(ii) As a second priority and, if space is available, a formerly migratory child,

as defined in 34 CFR 201.3, from birth to age 7, inclusive.

(b)(1) A family that would become ineligible for participation as a result of one or more family members becoming ineligible may continue to participate in the program until all family members become ineligible.

(2) In the situation described in paragraph (b)(1) of this section, to the extent possible, any family member who would be ineligible under paragraph (a) of this section may continue to be involved in appropriate family literacy activities, provided that projects may not provide these family members special activities different from those already provided for other Migrant Education Even Start participants.

(Authority: 20 U.S.C. 2743, 2745, 2831)

§ 212.53 What applications does the Secretary consider?

(a) The Secretary considers an application that—

(1) Meets the purposes of the Migrant Education Even Start program as provided in § 212.50; and

(2) Adequately demonstrates the applicant's ability to provide the additional funding required by section 1054(c) of the Act.

(b) As provided in § 212.25, the Secretary may waive the requirement in section 1054(c) of the Act concerning the source of the local contribution of funds.

(Authority: 20 U.S.C. 2743, 2744)

§ 212.54 How does the Secretary evaluate an application for a new grant?

(a) The Secretary uses the criteria in § 212.55 to evaluate an application.

(b) The Secretary awards up to 120 possible points for these criteria.

(c) The maximum number of points for each criterion is indicated in § 212.55(c).

(Authority: 20 U.S.C. 2743, 2747)

§ 212.55 What selection criteria does the Secretary use in making new grants?

The Secretary uses the criteria in § 212.21 in evaluating an application, except that—

(a) The criteria in § 212.21(b) (1) and (2) (regarding *Need for the project*) do not apply. Instead, for purposes of this subpart, the Secretary uses the criterion in paragraphs (a) (1) and (2) of this section to evaluate the need for the project.

(1) The Secretary reviews each application to determine the extent to which the applicant demonstrates that, during the period in which the project would operate in a particular location, the areas to be served have high percentages or large numbers of currently migratory children and their

parents in need of Migrant Education Even Start services.

(2) For purposes of paragraph (a)(1) of this section—

(i) Need for Migrant Education Even Start services must be shown by demonstrating high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators; and

(ii) High levels of need during the period in which the project would operate in a particular location may be shown by comparison with other areas of the State or of the United States.

(b)(1) The criterion in § 212.21(c)(2) (regarding the *Degree of cooperation and coordination*) does not apply.

(2) Instead, for purposes of this subpart, the Secretary considers, as a criterion, the extent to which the applicant has, in planning the interstate or intrastate project, engaged various providers in all locations in which the project would operate, in discussions that have resulted in firm agreements for specific cooperative activities.

(c) The maximum number of points that an applicant may receive for each selection criterion is:

(1) *Likelihood of success in meeting the Even Start goals*—32 points plus a possible 10 priority points. The Secretary awards up to four points for each criterion contained in § 212.21(a)(1)(i) through (a)(1)(viii).

(2) *Need for the project*—20 points.

(3) *Degree of cooperation and coordination*—30 points. The Secretary distributes these points as follows: § 212.21(c)(1)—5 points, § 212.55(b)—10 points, § 212.21(c)(3)—5 points, and § 212.21(c)(4)—10 points.

(4) *Reasonableness of budget*—8 points.

(5) *Promise as a model*—20 points. The Secretary distributes these points as follows: § 212.21(e)(1)—(9 points), § 212.21(e)(2)—(9 points), and § 212.21(e)(3)—(2 points).

(Authority: 20 U.S.C. 2743, 2831)

§ 212.56 What additional factors does the Secretary consider in making new grants?

(a) In addition to applying the criteria in §§ 212.21 and 212.55, the Secretary ensures that—

(1) Grants are made to projects that ensure coordination and cooperation between States (or areas of a State) in which participating children and parents reside during the year;

(2) Each project will build on existing community resources in a cooperative effort to create a new range of services integrating early childhood education and adult education for parents into a unified program; and

(3) To the extent possible, grants are distributed equitably among the States in the three migrant streams, as defined in paragraph (c) of this section.

(b) In order to meet the requirements of paragraph (a)(3) of this section, the Secretary—

(1) Separates applications into three groups representing the three migrant streams; and

(2) Awards grants to applicants in each stream that are ranked the highest as a result of the process in § 212.54, provided that there is one or more acceptable applications from an SEA or consortium of SEAs in that stream.

(c) For the purposes of this section, the States comprising each stream are the following:

EASTERN STREAM—

Alabama	New York
Connecticut	North Carolina
Delaware	Pennsylvania
Florida	Puerto Rico
Georgia	Rhode Island
Kentucky	South Carolina
Maine	Tennessee
Maryland	Vermont
Massachusetts	Virginia
Mississippi	West Virginia
New Hampshire	District of Columbia
New Jersey	

CENTRAL STREAM—

Arkansas	Missouri
Illinois	Nebraska
Indiana	North Dakota
Iowa	Ohio
Kansas	Oklahoma
Louisiana	South Dakota
Michigan	Texas
Minnesota	Wisconsin

WESTERN STREAM—

Alaska	New Mexico
Arizona	Oregon
California	Utah
Colorado	Washington
Idaho	Wyoming
Montana	Mariana Islands
Nevada	

(Authority: 20 U.S.C. 2743, 2831)

§ 212.57 What other provisions in this part apply?

(a) In addition to the provisions in this subpart, the following provisions in this part apply to the Migrant Education Even Start program:

(1) Section 212.3.

(2) Section 212.4.

(3) Section 212.5, except for § 212.5(b)(10). In the place of § 212.5(b)(10), paragraphs (a)(3) (i) through (iii) of this section apply.

(i) The following sections of 34 CFR part 201 apply to the Migrant Education Even Start program:

(A) Section 201.46 (State rulemaking and other SEA responsibilities.), except for § 201.46(e)(3)(i)(E).

(B) Section 201.47 (Complaint procedures for an SEA.).

(C) Section 201.49 (Persons to be assigned non-Chapter 1 duties.).

(ii) In §§ 201.46, 201.47, and 201.49, "chapter 1" or "chapter 1—Migrant Education Program" are interpreted as "Migrant Education Even Start."

(iii) Paragraphs (a)(3) (i) and (ii) of this section also apply when the Secretary makes direct grants under section 1052(a) of the Act.

(4) Section 212.6, except for the definition of *Eligible entity* in § 212.6(c). For the purposes of the Migrant Education Even Start program, except as noted in paragraph (b) and (c) of this section, *Eligible entity* means—

(i) An LEA or other operating agency as defined in 34 CFR 201.3 applying in collaboration with a community-based organization, public agency, institutions of higher education, or other nonprofit organization; or

(ii) A community-based organization or other nonprofit organization of

demonstrated quality applying in collaboration with an LEA or other operating agency as defined in 34 CFR 201.3.

(5) Section 212.23.

(6) Section 212.24.

(7) Section 212.25.

(8) Section 212.26, except that for the purposes of the Migrant Education Even Start program, the appropriate cross-references in § 212.26 (c) and (d) to §§ 212.21 and 212.22(a) are to §§ 212.55 and 212.56, respectively.

(9) Section 212.27.

(b) For the purposes of the Migrant Education Even Start program, in §§ 212.21, 212.24(a) and 212.25 an "eligible entity" means an SEA.

(c) For the purposes of the Migrant Education Even Start program, in § 212.24 (b) and (c) an "eligible entity" means an SEA or eligible entity.

(Authority: 20 U.S.C. 2743)

§ 212.58 May an SEA make a subgrant to an eligible entity?

(a) Notwithstanding the prohibition of subgrants in 34 CFR 75.708(a), an SEA that receives a grant under the Migrant Education Even Start program may make a subgrant of funds to one or more eligible entities, as defined in § 212.57(a)(4), provided that program funds are used as the SEA's approved project application specifies.

(b) An SEA that makes a subgrant of funds to one or more eligible entities may use not more than 5 percent of its Migrant Education Even Start grant for the costs of administration and technical assistance.

(Authority: 20 U.S.C. 2743, 2831)

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