

DEPARTMENT OF EDUCATION**34 CFR Part 263**

RIN 1810-AA79

Indian Fellowship and Professional Development Programs**AGENCY:** Department of Education.**ACTION:** Notice of Proposed Regulations.

SUMMARY: The Secretary proposes to amend the regulations that govern grants for the Indian Fellowship Program. This program is authorized under Title IX of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, enacted October 20, 1994. These regulations would identify eligible applicants for the program and the specific application and other program requirements that applicants must meet in order to be considered for funding. These regulations would also provide certain general provisions and requirements for the new payback provisions that apply to both the Indian Fellowship Program and the Professional Development Program.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Cathie Martin, Office of Indian Education, Department of Education, 600 Independence Avenue, S.W., Portals Building—Room 4300, Washington, D.C. 20202-6335. Comments may also be sent through the Internet to "Indian_Fellowships@ed.gov".

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260-1683. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 20, 1994 the Professional Development Program and the Indian Fellowship Program were substantially revised and recodified, respectively, as sections 9122 and 9123 of Subpart 2 of Part A of Title IX of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 103-382. These

proposed regulations would identify eligible applicants for the Indian Fellowship Program and address the specific program requirements, including application requirements and requirements concerning the new payback provisions that applicants must meet in order to be considered for funding for both new and continuation awards. The criteria for selecting participants for the Professional Development Program are not included in these proposed regulations. The selection criteria in the Education Department General Administrative Regulations (EDGAR), 34 CFR Part 75, will be used for competitions under the Professional Development Program.

In addition, certain of these proposed regulations would govern the Professional Development Program (§ 263.3, (definitions), § 263.1 (b) and (c), and §§ 263.35 through 263.37 (the new payback provisions that also apply to this program)).

With regard to the payback provisions, the Indian Fellowship Program and Professional Development Program now require that an individual receiving financial assistance either (1) perform work related to the training for which assistance was received and that benefits Indian people; or (2) repay all or a prorated portion of the assistance.

On June 27, 1995 the Secretary published final regulations (60 FR 33300) to govern the fiscal year (FY) 1995 grant competitions for the Indian Fellowship and Professional Development Programs. This notice of proposed rulemaking (NPRM) proposes to amend the regulations that will apply to all FY 1996 awards, both new and continuation, and subsequent fiscal years' awards.

Except for minor editorial and technical revisions, there are no differences between the regulations published June 27, 1995 and this NPRM. The submission of the certification required in § 263.21(e) is not a new requirement but is a technical revision added for the convenience of the reader.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the

regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 263.2 Who is eligible to apply under the Indian Fellowship Program?) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5100, FB-10B), Washington, D.C. 20202-2241.

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.

These proposed regulations would affect individuals, institutions of higher education (IHEs), and local educational agencies (LEAs). Individuals, however, are not defined as "small entities" in the Regulatory Flexibility Act. These proposed regulations would not have a significant economic impact on the small IHEs or LEAs affected because the individuals, rather than the IHEs or LEAs, are subject to the payback provisions of these proposed regulations.

Paperwork Reduction Act of 1995

Sections 263.21, 263.22, 263.30, 263.31, 263.32, 263.33, 263.35, 263.36, and 263.37 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for review.

Collection of Information: Indian Fellowship and Professional Development Programs

Individuals are eligible to apply for grants under the Indian Fellowship Program. The information to be collected includes—assurances to meet certain statutory requirements; documents to show proof that the individual meets the definition of

"Indian;" documents that provide verification that the individual has been admitted to an institution of higher education for an allowable field and level of study; documents that show the individual's past academic performance; a narrative essay on the individual's commitment to the selected field of study and service to the Indian community; and financial information to determine the amount of the fellowship. All new applications are submitted in response to a notice published in the Federal Register printed once each year. For continuing participants, the information submitted annually consists of information to document continued academic and financial eligibility. The information from both new and continuing respondents is used to determine applicant eligibility and award amounts of participants selected. All participants are required to provide a copy of their transcript after each academic term.

The annual reporting burden for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to be a total of four hours per response for 550 new respondents, .5 hours per response for 60 continuing respondents, and .25 hours per response for reporting (transcripts) for 100 respondents.

Eligible applicants for the Professional Development Program include institutions of higher education, including Indian institutions of higher education, State or local educational agencies in consortium with an institution of higher education, and Indian tribes or organizations in consortium with an institution of higher education. The Indian Fellowship Program and the Professional Development Program require participants to perform a service payback or provide a cash payback if the service cannot be performed or completed. For those performing a service payback upon completion of their training program, participants will be required to provide a certification of employment every six months until the payback is completed. The information collected is used to track the progress of participants in completing their payback requirements. The annual reporting burden for this requirement is estimated to be .50 hours per response for 20 respondents twice a year.

The total annual reporting and recordkeeping burden for this collection is estimated to be 2,275 hours.

Organizations and individuals desiring to submit comments on the information collection requirements

should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C., 20503; Attention: Wendy Taylor.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

The Indian Fellowship Program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

The Professional Development Program, with the exception of assistance to federally recognized tribes, is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. 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.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4302, Portals Building, 1250 Maryland Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 263

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

Dated: July 22, 1996.

Gerald N. Tirozzi,
Assistant Secretary for Elementary and Secondary Education.

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

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

PART 263—INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS

Subpart A—General

Sec.

- 263.1 What are the Indian Fellowship and the Professional Development Programs?
- 263.2 Who is eligible to apply under the Indian Fellowship Program?
- 263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?
- 263.4 What are the allowable fields of study in the Indian Fellowship Program?
- 263.5 What does a fellowship award include?
- 263.6 What is the time period for a fellowship award?

Subpart B—How Does the Secretary Select Fellows?

- 263.20 What priority is given to certain applicants?
- 263.21 What should the fellowship application contain?
- 263.22 How does the Secretary evaluate applications?

Subpart C—What Conditions Must be Met by Fellows?

- 263.30 What are the basic requirements of a fellow?
- 263.31 What information must be submitted after a fellowship is awarded?
- 263.32 What are the requirements for a leave of absence?
- 263.33 What is required for continued funding under a fellowship?
- 263.34 When is a fellowship discontinued?
- 263.35 What are the payback requirements?
- 263.36 When does payback begin?
- 263.37 What are the payback reporting requirements?

Subpart D—How Are Fellowship Payments Made?

- 263.40 How are payments made?
- Authority: 20 U.S.C. 7832 and 7833, unless otherwise noted.

Subpart A—General**§ 263.1 What are the Indian Fellowship and the Professional Development Programs?**

(a) The Indian Fellowship Program provides fellowships to enable Indian students to pursue a course of study leading to—

- (1) A postbaccalaureate degree in medicine, law, education, psychology, clinical psychology, or a related field; or
- (2) An undergraduate or postbaccalaureate degree in business administration, engineering, natural resources, or a related field.

(b) The Professional Development Program provides grants to eligible entities to—

- (1) Increase the number of qualified Indian individuals in professions that serve Indian people;
- (2) Provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and
- (3) Improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (b)(2) of this section.

(c) The Indian Fellowship and the Professional Development Programs require individuals who receive training under either program to—

- (1) Perform work that is related to the training received under either program and that benefits Indian people or to repay all or a prorated part of the assistance received under the program; and
- (2) Report to the Secretary on the individual's compliance with the work requirement.

(Authority: 20 U.S.C. 7832 and 7833)

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

In order to be eligible for a fellowship, an applicant must be—

- (a) An Indian as defined in § 263.3;
- (b) A United States citizen;
- (c) Currently in attendance or have been accepted for admission as a full-time undergraduate or graduate student at an accredited institution of higher education in one of the fields listed in § 263.4 or a related field;
- (d) Recognized by the institution as a degree candidate; and
- (e) Eligible under 34 CFR 75.60.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474)

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

(a) Definitions in EDGAR. The following terms used in this part are defined in 34 CFR 77.1:

Department
Secretary

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

Dependent allowance means costs for the care of minor children who reside with the fellow and for whom the fellow has responsibility.

Expenses means tuition and required fees; required university health insurance; room, personal living expenses, and board at or near the institution; dependent allowance; instructional supplies; and reasonable travel and research costs associated with doctoral dissertation completion.

Fellow means the recipient of a fellowship under the Indian Fellowship Program. The term "fellow" also includes individual project participants under the Professional Development Program with regard to the payback provisions contained in §§ 263.35 through 263.37.

Fellowship means an award under the Indian Fellowship Program.

Full course load means the number of credit hours that the institution requires of a full-time student.

Full-time student means a student who—

- (1) Is a degree candidate;
- (2) Carries a full course load; and
- (3) Is not employed for more than 20 hours a week.

Good standing means a cumulative grade point average of at least 2.0 on a 4.0 grade point scale in which failing grades are computed as part of the average, or another appropriate standard established by the institution.

Graduate degree means a postbaccalaureate degree awarded by an institution of higher education beyond the undergraduate level.

Indian means an individual who is—

- (1) A member of an Indian tribe or band, as membership is defined by the

Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides; or

(2) A descendant, in the first or second degree, of an individual described in paragraph (1) of this definition; or

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect on October 19, 1994.

Institution of higher education means an accredited college or university within the United States that offers a baccalaureate or postbaccalaureate degree.

Payback means work-related service or cash reimbursement to the Department of Education for the training received under the Indian Fellowship or the Professional Development Program.

Stipend means that portion of an award that is used for room and board and personal living expenses.

Undergraduate degree means a baccalaureate (bachelor's) degree awarded by an institution of higher education.

(Authority: 20 U.S.C. 7832, 7833, and 7881)

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

(a) The following are allowable fields for an undergraduate degree under this program:

- (1) Business administration.
- (2) Engineering.
- (3) Natural resources.

(b) The following are allowable fields for a graduate degree under this program:

- (1) Medicine.
- (2) Clinical psychology.
- (3) Law.
- (4) Education.
- (5) Psychology.
- (6) Engineering.
- (7) Natural resources.
- (8) Business administration.

(c) The Secretary considers under paragraphs (a) and (b) of this section, on a case-by-case basis, the eligibility of applications for fellowships in related fields of study.

(Authority: 20 U.S.C. 7833)

§ 263.5 What does a fellowship award include?

(a) The Secretary awards a fellowship in an amount up to, but not more than, the expenses as defined in this part. The assistance provided by the program either—

(1) Fully finances a student's educational expenses; or

(2) Supplements other sources of financial aid, including other Federal financial aid other than loans, for meeting educational expenses.

(b) The Secretary announces the expected maximum amounts for subsistence and other fellowship costs in the annual application notice published in the Federal Register.

(Authority: 20 U.S.C. 7833)

§ 263.6 What is the time period for a fellowship award?

(a) The Secretary awards a fellowship for a period of time not exceeding—

(1) Four academic years for an undergraduate or doctorate degree; and

(2) Two academic years for a master's degree.

(b) With prior approval from the Secretary, summer school may be allowed for eligible continuation students after completion of the first academic year.

(Authority: 20 U.S.C. 7833)

Subpart B—How Does the Secretary Select Fellows?

§ 263.20 What priority is given to certain applicants?

The Secretary awards not more than 10 percent of the fellowships, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(Authority: 20 U.S.C. 7833)

§ 263.21 What should the fellowship application contain?

In addition to the requirements specified in § 263.22, an applicant shall provide—

(a) Evidence that the applicant is an Indian as defined in § 263.3. Evidence may be in the form of—

(1)(i) A copy of the applicant's documentation of tribal enrollment or membership; or

(ii) A copy of the parent's or grandparent's documentation of tribal enrollment or membership, with supporting birth certificates or similar documents showing the applicant's descentance from the enrolled member;

(2) A letter of certification on official letterhead with the appropriate signature from a federally or State recognized tribe or band; or

(3) A certificate of degree of Indian blood (CDIB) issued by an authorized representative of the Bureau of Indian Affairs or an official of a federally recognized tribe;

(b)(1) Evidence that the applicant is currently in attendance or has been accepted for admission as a full-time student at an accredited institution of higher education in one of the eligible fields of study listed in § 263.4; or

(2) For an applicant who has not yet been accepted for admission, documentation of having been accepted by an accredited institution of higher education by a date to be specified by the Secretary;

(c)(1) The most current official high school and, if appropriate, undergraduate transcripts for undergraduate applicants; or

(2) The most current official undergraduate and, if appropriate, graduate transcripts for graduate applicants;

(d) The certification required under 34 CFR 75.61; and

(e) The certification contained within the application regarding agreement to fulfill the requirements of the payback provision that is signed and dated by the applicant.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474).

§ 263.22 How does the Secretary evaluate applications?

(a) The Secretary reviews and ranks an application with other applications for the same field and related fields of study.

(b) The following criteria, with the total number of points available in parenthesis, are used to evaluate an application for a new fellowship award:

(1) *Official academic record* (60 points). The Secretary considers the quality of the applicant's academic record by reviewing—

(i) The applicant's grade point average and, if applicable, scores from such standardized tests as the Scholastic Aptitude Test (SAT), American College Testing Assessment Program (ACT), Graduate Record Examination (GRE), Law School Admissions Test (LSAT), Medical College Admission Test (MCAT), and achievement tests; and

(ii) The applicant's official transcripts and any grade reports.

(2) *Letters of recommendation* (15 points). The Secretary considers the applicant's potential for success in completing the academic requirements for his or her field of study by reviewing one letter of recommendation from each of the following categories:

(i) A school principal, teacher, academic or non-academic instructor or counselor, a college professor, or academic advisor.

(ii) A member of the community or civic leader who has observed the

applicant in educational, social, or civic activities.

(iii) A tribal representative or an Indian community member.

(3) *Commitment essay* (25 points). The Secretary considers the applicant's commitment by reviewing an essay, written by the applicant that addresses—

(i) The applicant's career goals and why the chosen field of study will benefit Indian people;

(ii) The applicant's life experiences and personal and family expectations that will enhance the applicant's anticipated career accomplishments; and

(iii) The applicant's anticipated commitment to providing service to Indian people.

(Authority: 20 U.S.C. 7833)

Subpart C—What Conditions Must be Met by Fellows?

§ 263.30 What are the basic requirements of a fellow?

A fellow shall—

(a) Start school during the first semester of the award at the institution named on the grant award document and complete at least one full academic term;

(b) Submit to the Secretary two copies of his or her official grade report at the close of each academic term and upon completion of the training program at that institution;

(c) Submit an annual continuation application, in the form and timeframes specified by the Secretary, to request funding for each remaining academic year approved under the initial application;

(d) Request from the Secretary a written leave of absence at least 30 days prior to withdrawal, unless an emergency situation has occurred, for any interruption in his or her program of academic studies; and

(e) Sign an agreement with the Department to meet the provisions of the payback requirement.

(Authority: 20 U.S.C. 7833)

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

To verify further the accuracy of the information provided in the application, the applicant shall provide all information and documents as requested by the Secretary, including information on other financial aid sources for educational purposes. The applicant's failure to provide the requested information and documents invalidates the application, and the Secretary will not consider it for funding.

(Authority: 20 U.S.C. 7833)

§ 263.32 What are the requirements for a leave of absence?

(a) The Secretary may approve a leave of absence for a period not longer than one academic year if a fellow has successfully completed at least one academic year.

(b) A written request for a leave of absence must be submitted to the Secretary not less than 30 days prior to withdrawal or completion of a grading period, unless an emergency situation has occurred and the Secretary waives the prior notification requirement.

(c) The Secretary permits a leave of absence only if the institution certifies that the fellow is eligible to resume his or her course of study at the end of the leave of absence.

(d) The Secretary withdraws any remaining funds of the fellow's award if a leave of absence occurs prior to the end of an academic term.

(Authority: 20 U.S.C. 7833)

§ 263.33 What is required for continued funding under a fellowship?

(a) The Secretary reviews the status of each fellow at the end of each year and continues support only if the fellow—

(1) Has complied with requirements under this part;

(2) Has remained a full-time student in good standing in the field in which the fellowship was awarded; and

(3) Has submitted a noncompeting continuation application requesting additional support.

(b) A fellowship terminates when the fellow receives the degree being sought or after the fellow has received the fellowship for the maximum number of years allowed as defined in § 263.6, whichever comes first.

(Authority: 20 U.S.C. 7833)

§ 263.34 When is a fellowship discontinued?

(a) The Secretary may discontinue the fellowship if the fellow—

(1) Fails to comply with the provisions under this part, including failure to obtain an approved leave of absence under § 263.32, or with the terms and conditions of the fellowship award; or

(2) Fails to report any change in his or her academic status.

(b) The Secretary discontinues a fellowship only after providing reasonable notice and an opportunity for the fellow to rebut, in writing or in an informal meeting with the responsible official in the Department of Education, the basis for the decision.

(Authority: 20 U.S.C. 7833)

§ 263.35 What are the payback requirements?

(a) Individuals receiving assistance under the Indian Fellowship Program or the Professional Development Program are required to—

(1) Perform work related to the training received and that benefits Indian people; or

(2) Repay all or a prorated part of the assistance received.

(b) The period of time required for a work-related payback is equivalent to the total period of time for which training was actually received under the Indian Fellowship Program or the Professional Development Program.

(c) The cash payback required must be equivalent to the total amount of funds received and expended for training received under either of these programs and may be prorated based on any approved work-related service the participant performs.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.36 When does payback begin?

(a) For all fellows who complete their training under the Indian Fellowship Program or the Professional Development Program, except for medical degree and doctoral degree candidates, payback must begin within six months from the date of completion of the training.

(b) For fellows in a doctoral degree program requiring a dissertation, payback must begin not later than two years after the program's academic course work has been completed or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a doctoral degree program shall submit an annual written report to the Secretary on the status of the dissertation.

(2) Within 30 days of completion of the dissertation, fellows in a doctoral degree program shall provide written notification to the Secretary of completion of the dissertation and of the participant's plans for completing a work-related or cash payback.

(c) For fellows in a doctoral degree program with clinical or internship requirements, payback must begin within six months after the clinical or internship requirements have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a doctoral degree program with clinical or internship requirements shall submit an

annual written report to the Secretary on the status of completion of the clinical or internship requirements.

(2) Within 30 days of completion of the clinical or internship requirements, fellows shall provide written notification to the Secretary of completion of those requirements and the participant's plans for completing a work-related or cash payback.

(d) For fellows in a medical degree program, payback must begin six months from the date that all residency requirements of the program have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a medical degree program shall submit an annual written report to the Secretary on the status of completion of the residency requirements of the program.

(2) Within 30 days of completion of the residency requirements, fellows in a medical degree program shall provide written notification to the Secretary of completion of the residency requirements and of the participant's plans for completing a work-related or cash payback.

(e) For fellows who do not complete their training under the Indian Fellowship Program or the Professional Development Program, payback must begin within six months from the date the fellow leaves the Indian Fellowship Program or the Professional Development Program, unless he or she continues as a full-time student, without interruption, in a program leading to a degree in an accredited institution of higher education.

(1) If the fellow leaves the Indian Fellowship Program or the Professional Development Program, but plans to continue his or her education as a full-time student, the Secretary may defer the payback requirement until the participant has completed his or her educational program. Written requests for deferment must be submitted to the Secretary within 30 days of leaving the Indian Fellowship Program or the Professional Development Program and must provide the following information:

(i) The name of the accredited institution the student will be attending.

(ii) A copy of the letter of admission from the institution.

(iii) The degree being sought.

(iv) The projected date of completion.

(2) After approval by the Secretary of the deferment of the payback provision on the basis of continuing as a full-time student, former fellows are required to submit to the Secretary, after every grading period, a status report from an

academic advisor or other authorized representative of the institution of higher education showing verification of enrollment and status.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.37 What are the payback reporting requirements?

(a) *Written notice.* Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback or to continue in a degree program as a full-time student.

(b) *Work-related payback.* If the participant proposes a work-related payback, the written notice of intent must include information explaining how the work-related service is related to the training received and benefits Indian people.

(1) For work-related service, the Secretary reviews each participant's payback plan to determine if the work-related service is related to the training received and benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and

benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.

(2) The payback plan for work-related service must identify where, when, the type of service, and for whom the work will be performed.

(3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such a change.

(4) For work-related payback, individuals shall submit a status report every six months beginning from the date the work-related service is to begin. The reports must include a certification from the participant's employer that the service or services have been performed without interruption.

(5) Upon written request, and if appropriate, the Secretary may extend the period for completing a work-related payback by a total of 18 months.

(6) For participants who initiate, but cannot complete, a work-related payback, the payback reverts to a cash payback.

(c) *Cash payback.* If a cash payback is to be made, the Department will contact

the participant to establish an appropriate schedule for payments.

(Authority: 20 U.S.C. 7832 and 7833)

Subpart D—How Are Fellowship Payments Made?

§ 263.40 How are payments made?

(a) Fellowship payments are made directly to the institution of higher education where a fellow is enrolled, with stipends provided to the fellow in installments by the institution. No fewer than two installments per academic year may be made.

(b) If a fellow transfers to another institution, the fellowship may also be transferred provided the fellow maintains basic eligibility for the award.

(c) A fellow who officially or unofficially withdraws or is expelled from an institution before completion of a term shall refund a prorated portion of the stipends received, as determined by the Secretary. The Secretary requires the institution to return any unexpended funds.

(Authority: 20 U.S.C. 7833)

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