

such as community-based organizations, VISTA recipients, adult basic education program recipients, non-profit literacy action organizations, and existing organizations providing shelters to the homeless;

(3) The extent to which the management plan is effective and ensures proper and efficient administration of the project;

(4) How the applicant will ensure that project participants otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(5) If applicable, the plan for the local application process and the criteria for evaluating local applications submitted by eligible applicants for contracts or subgrants.

(d) *Quality of key personnel.* (15 points) (1) The Secretary reviews each application to determine the quality of key personnel the State plans to use on the project, including—

(i) The qualifications of the State coordinator/project director;

(ii) The qualifications of each of the other key personnel to be used by the SEA in the project;

(iii) The time that each person referred to in paragraphs (d) (1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (d)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience in providing services to homeless populations;

(iii) Experience and training in project management; and

(iv) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The budget is presented in enough detail for determining paragraphs (e) (1) and (2) of this section.

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Objectively, and to the extent possible, quantifiably measure the success, both of the program and of the participants, in achieving established goals and objectives;

(2) Contain provisions that allow for frequent feedback from evaluation data provided by participants, teachers, and community groups in order to improve the effectiveness of the program; and

(3) Include a description of the types of instructional materials the applicant plans to make available and the methods for making the materials available.

(Approved by the Office of Management and Budget under control number 1830-0506)

(Authority: 42 U.S.C. 11421)

[54 FR 34430, Aug. 8, 1989, as amended at 56 FR 13522, Apr. 2, 1991]

§ 491.22 What additional factor does the Secretary consider?

In addition to the criteria in § 491.21, the Secretary may consider whether funding a particular applicant would improve the geographical distribution of projects funded under this program.

(Authority: 42 U.S.C. 11421)

Subpart D—What Conditions Must be Met After an Award?

§ 491.30 How may an SEA operate the program?

An SEA may operate the program directly, award subgrants, or award contracts to eligible recipients. If an SEA awards contracts, the SEA shall distribute funds on the basis of the State-approved contracting process.

(Authority: 42 U.S.C. 11421(a)).

CHAPTER V—OFFICE OF BILINGUAL
EDUCATION AND MINORITY LANGUAGES
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PART 535—BILINGUAL EDUCATION: GRADUATE FELLOWSHIP PROGRAM

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AUTHORITY: 20 U.S.C. 7475, unless otherwise noted.

SOURCE: 61 FR 31352, June 19, 1996, unless otherwise noted.

Subpart A—General

§ 535.1 What is the Bilingual Education: Graduate Fellowship Program?

The Bilingual Education: Graduate Fellowship Program provides financial assistance, through institutions of higher education (IHEs), to individuals who are pursuing master's, doctoral, or post-doctoral study related to instruction of limited English proficient (LEP) children and youth in areas such as teacher training, program administration, research and evaluation, and curriculum development and for the support of dissertation research related to this study.

(Authority: 20 U.S.C. 7475(a)(1))

§ 535.2 Who is eligible to participate in this program?

(a) An IHE is eligible to participate in this program.

(b) An individual who meets the eligibility requirements under § 535.41 may apply for a fellowship through an IHE participating in this program.

(Authority: 20 U.S.C. 7475)

§ 535.3 What financial assistance is available for fellowship recipients?

(a) The Secretary may authorize the following financial assistance on an annual basis to master's and doctoral program fellowship recipients:

(1) Tuition and fees—the usual costs associated with the course of study.

(2) Books—up to \$300.

(3) Travel—up to \$250 for travel directly related to the program of study.

(4) A stipend of up to \$500 per month, including allowances for subsistence and other expenses, for a participant and his or her dependents, if the participant is—

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(i) A full-time student in a program of study that was in the approved application; and

(ii) Gainfully employed no more than 20 hours a week or the annual equivalent of 1040 hours.

(b) The Secretary may authorize the following financial assistance on an annual basis to post-doctoral fellowship recipients:

(1) A stipend of up to \$40,000.

(2) Publications, research and scholarly materials, research-related travel, and fees—up to \$5,000.

(c) In authorizing assistance to fellowship recipients under paragraphs (a) and (b) of this section, the Secretary considers the amount of other financial compensation that the fellowship recipients receive during the training period.

(Authority: 20 U.S.C. 7478)

§ 535.4 What regulations apply?

The following regulations apply to this program:

- (a) 34 CFR 75.51 and 75.60 through 62.
- (b) 34 CFR part 77.
- (c) 34 CFR part 79.
- (d) 34 CFR part 85.
- (e) The regulations in this part 535.

(Authority: 20 U.S.C. 7475)

§ 535.5 What definitions apply?

(a) *Definitions in the Act.* (1) The following terms used in this part are defined in section 7501 of the Act:

- Bilingual education program
- Children and youth
- Limited English proficiency
- Native Hawaiian or Native American Pacific Islander Native language educational organization
- Office
- Other programs for persons of limited-English proficiency

(2) The following terms used in this part are defined in section 7104 of the Act:

- Indian tribe
- Tribally sanctioned educational authority

(3) The following terms used in this part are defined in section 14101 of the Act:

- Institution of higher education
- Local educational agency (LEA)

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

Applicant	Project
Application	Recipient
Award	Secretary
Department	State
EDGAR	State educational
Fiscal year	agency (SEA)

(c) Other definition. The following definition also applies to this part:

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

(Authority: 20 U.S.C. 7475-7480)

Subpart B—How Does an IHE Apply To Participate in the Program?

§ 535.10 How does an IHE apply to participate in the program?

To apply for participation under this part, an IHE shall submit an application to the Secretary that—

- (a) Responds to the appropriate selection criteria in §§ 535.21 and 535.23; and
- (b) Requests a specific number of fellowships to be awarded in each proposed language or other curriculum group for the fellowship period specified in § 535.42.

(Authority: 20 U.S.C. 7475)

§ 535.11 What assurance must an application contain?

An application that proposes to train master's or doctoral level students with funds received under this part must provide an assurance that the program will include a training practicum in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(A))

§ 535.12 In what circumstances may an IHE waive the training practicum requirement?

An IHE participating under this program may waive the requirement in § 535.11 for a training practicum for a master's or doctoral degree candidate who has had at least one academic year of experience in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(B))

Subpart C—How Does the Secretary Approve an IHE's Participation?

§ 535.20 How does the Secretary evaluate an application to participate in this program for master's and doctoral level fellowships?

(a) The Secretary evaluates an application to participate in this program for master's and doctoral level fellowships on the basis of the criteria in § 535.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated under § 535.21, the Secretary rank-orders the applications.

(e) The Secretary then determines the maximum number of fellowships by language or other curriculum group that may be awarded at each IHE—

(1) Based on the IHE's capacity to provide graduate training in the areas proposed for fellowship recipients; and

(2) To the extent feasible, in proportion to the need for individuals with master's and doctoral degrees in the areas of training proposed by the IHE.

(Authority: 20 U.S.C. 7475)

§ 535.21 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for master's and doctoral level fellowships:

(a) *Institutional commitment.* (25 points) The Secretary reviews each application to determine the quality of the institution's graduate program of study, including consideration of—

(1) The extent to which the program has been adopted as a permanent graduate program of study;

(2) The organizational placement of the program of study;

(3) The staff and resources that the IHE has committed to the program;

(4) The IHE's demonstrated competence and experience in programs and activities such as those authorized under the Act;

(5) The IHE's demonstrated experience in assisting fellowship recipients

to find employment in the field of bilingual education; and

(6) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of accomplishments under that previous project.

(b) *Quality of the graduate academic program.* (20 points) The Secretary reviews each application to determine the quality of the graduate program of study for which approval is sought, including—

(1) The course offerings and academic requirements for the graduate program;

(2) The availability of related course offerings through other schools or departments within the IHE;

(3) The IHE's focus and capacity for research;

(4) The quality of the standards used to determine satisfactory progress in, and completion of, the program;

(5) The extent to which the program of study prepares Fellows to improve the academic achievement of LEP children and youth; and

(6) In the case of a program designed to prepare trainers of educational personnel for programs of bilingual instruction, the extent to which the program incorporates the use of English and another language to develop the Fellows' competencies as trainers of bilingual educational personnel.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty to be used in the program of study, including the extent to which their background, education, research interests, and relevant experience qualify them to plan and implement a successful program of high academic quality related to instruction of LEP children and youth.

(d) *Field-based experience.* (15 points) The Secretary reviews each application to determine the extent to which the program of study provides field-based experience through arrangements with LEAs, SEAs, or persons or organizations with expertise in programs for LEP children and youth.

(e) *Evidence of local or national need.* (10 points) The Secretary reviews each application to determine the need for

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more individuals trained, at the graduate level, in the area of study proposed by the applicant.

(f) *Recruitment plan.* (10 points) The Secretary reviews each application to determine the quality of the applicant's plan for recruitment and nomination of students.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475 and 7547)

§ 535.22 How does the Secretary evaluate an application to participate in this program for post-doctoral study fellowships?

(a) The Secretary evaluates an application to participate in this program for post-doctoral study fellowships on the basis of the criteria in § 535.23.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated according to the selection criteria, the Secretary rank-orders the applications.

(e) The Secretary designates the maximum number of fellowships that may be awarded at each IHE based on the factors in § 535.23 (a), (c), and (d).

(Authority: 20 U.S.C. 7475)

§ 535.23 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for post-doctoral level fellowships:

(a) *Institutional commitment.* (35 points) The Secretary reviews each application to determine the overall strength of the applicant's commitment to meeting the educational needs of LEP children and youth, including consideration of—

(1) The IHE's demonstrated competence and experience in programs and research activities such as those authorized under subpart 2 of part A of title VII of the Act;

(2) The extent to which the IHE's research environment is supportive of the success of post-doctoral Fellows in their research;

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(3) The IHE's demonstrated experience in assisting fellowship recipients to find employment in the field of bilingual education;

(4) The IHE's procedures for the dissemination and use of research findings; and

(5) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of accomplishments under that previous project.

(b) *Proposed areas of research.* (35 points) The Secretary reviews each application to determine to what extent—

(1) There is a clear description of the areas of research proposed to be undertaken by the post-doctoral Fellows;

(2) The research to be undertaken by the post-doctoral Fellows is likely to produce new and useful information;

(3) The areas of proposed research relate to the educational needs of LEP children and youth and of the educational personnel that serve that population;

(4) The outcomes of the research and study are likely to benefit the defined target population by improving the academic achievement of LEP children and youth;

(5) The data collection and data analysis plans or research plans and designs are reasonable and sound; and

(6) A project period for completion of the study, consistent with period of availability of post-doctoral fellowships in § 535.42, is specified.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty likely to assist, guide, or mentor post-doctoral Fellows, including the extent to which the faculty's background, education, research interests, and relevant experiences qualify them to support high-quality research and study performed by post-doctoral Fellows.

(d) *Adequacy of resources.* (10 points) The Secretary reviews each application to determine to what extent—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative and other necessary support is evident.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475)

Subpart D—How Does an Individual Apply for a Fellowship?

§ 535.30 How does an individual apply for a fellowship?

(a) An individual shall submit an application for a fellowship to an IHE that has been approved for participation under § 535.20 or § 535.22.

(b) Each participating IHE may establish procedures for receipt of applications from individuals.

(Authority: 20 U.S.C. 7475)

Subpart E—How Are Fellows Selected?

§ 535.40 How does the Secretary select Fellows?

(a)(1) A participating IHE shall submit names of nominees to the Secretary.

(2) If the IHE has more than one nominee, the IHE shall rank the nominees in order of preference to receive a fellowship.

(b) The Secretary selects new Fellows according to the rank order prepared by the IHE, subject to the maximum number of fellowships designated for that IHE under §§ 535.20 and 535.22.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475)

§ 535.41 Who may an IHE nominate for fellowships?

(a) In nominating individuals to receive master's and doctoral level fellowships, an IHE shall nominate only individuals who—

(1) Have been accepted for enrollment as full-time students in an approved course of study offered by the IHE;

(2) Have an excellent academic record;

(3) Are proficient in English and, if applicable, another language;

(4) Have experience in providing services to, teaching in, or administering programs for LEP children and youth;

(5) Are planning to enter or return to a career in service to LEP children and youth after completion of their studies;

(6) Are eligible to receive assistance under 34 CFR 75.60 and 75.61; and

(7)(i) Are citizens, nationals, or permanent residents of the United States;

(ii) Are in the United States for other than temporary purposes and can provide evidence from the Immigration and Naturalization Service of their intent to become permanent residents; or

(iii) Are permanent residents of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

(b) In nominating individuals to receive post-doctoral fellowships, an IHE shall nominate only individuals who—

(1) Have doctoral degrees in relevant disciplines that qualify those individuals to conduct independent research on educational programs and policies for LEP children and youth; and

(2) Meet the criteria in paragraphs (a)(3) through (7) of this section.

(Authority: 20 U.S.C. 7475)

§ 535.42 What is the period of a fellowship?

(a) Except as provided in paragraph (b) of this section, the Secretary may award a fellowship—

(1) For a maximum of two one-year periods to an individual who maintains satisfactory progress in a master's or post-doctoral program of study; and

(2) For a maximum of three one-year periods to an individual who maintains satisfactory progress in a doctoral program of study.

(b) Subject to the availability of funds, and if an IHE provides adequate justification, the Secretary may extend a fellowship beyond the maximum period to a master's or doctoral Fellow who, for circumstances beyond the Fellow's control, is unable to complete the program of study in that period.

(c) A fellowship recipient who seeks assistance beyond the initial one-year

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period must be renominated by the participating IHE.

(d) Prior to approving nominations of new Fellows, the Secretary may give preference to fellowship recipients in their second or third year who maintain satisfactory progress in the program of study.

(Authority: 20 U.S.C. 7475)

Subpart F—What Conditions Must Be Met by Fellows?

§ 535.50 What is the service requirement for a fellowship?

(a) Upon selection for a fellowship, a Fellow shall sign an agreement, provided by the Secretary, to work for a period equivalent to the period of time that the Fellow receives assistance under the fellowship in an activity—

(1) (i) Related to the program; or

(ii) Authorized under part A of title VII of the Act; and

(2) Approved by the Secretary.

(b) A fellowship recipient shall begin working in an activity specified in paragraph (a) of this section within six months of the date from which—

(1) The master's or doctoral recipient ceases to be enrolled at an IHE as a full-time student; or

(2) The post-doctoral recipient completes the project period in the approved program of study.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475(b))

§ 535.51 What are the requirements for repayment of the fellowship?

(a) A fellowship recipient who does not work in an activity described in § 535.50 shall repay the full amount of the fellowship.

(b) The Secretary prorates the amount a fellowship recipient is required to repay based on the length of time the fellowship recipient worked in an authorized activity compared with the length of time the fellowship recipient received assistance.

(Authority: 20 U.S.C. 7475(b))

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§ 535.52 What is the repayment schedule?

(a) A fellowship recipient required to repay all or part of the amount of the fellowship shall begin repayments—

(1) Within six months of the date the fellowship recipient meets the criteria in § 535.50(b)(1) or (2); or

(2) On a date and in a manner established by the Secretary, if the fellowship recipient ceases to work in an authorized activity.

(b) A fellowship recipient must repay the required amount, including interest, in a lump sum or installment payments approved by the Secretary.

(c) The repayment period may be extended if the Secretary grants a deferment under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.53 What is the rule regarding interest?

(a) In accordance with 31 U.S.C. 3717, the Secretary charges a fellowship recipient interest on the unpaid balance that the fellowship recipient owes.

(b) No interest is charged for the period of time—

(1) That precedes the date on which the fellowship recipient is required to begin repayment; or

(2) During which repayment has been deferred under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.54 Under what circumstances is repayment deferred?

The Secretary may defer repayment if the fellowship recipient—

(a) Suffers from a serious physical or mental disability that prevents or substantially impairs the fellowship recipient's employability in an activity described in § 535.50;

(b) Demonstrates to the Secretary's satisfaction that the fellowship recipient is conscientiously seeking but is unable to secure employment in an activity described in § 535.50;

(c) In the case of a master's or doctoral fellowship recipient, re-enrolls as a full-time student at an IHE;

(d) Is a member of the Armed Forces of the United States on active duty;

(e) Is in service as a volunteer under the Peace Corps Act; or

(f) Demonstrates to the Secretary's satisfaction that the existence of extraordinary circumstances prevents the fellowship recipient from making a scheduled payment.

(Authority: 20 U.S.C. 7475(b))

§ 535.55 What is the length of the deferment of repayment?

(a) Unless the Secretary determines otherwise, a fellowship recipient shall apply to renew a deferment on a yearly basis.

(b) Deferments for military or Peace Corps service may not exceed three years.

(Authority: 20 U.S.C. 7475(b))

§ 535.56 Under what circumstances is repayment waived?

The Secretary may waive repayment if the fellowship recipient demonstrates the existence of extraordinary circumstances that justify a waiver.

(Authority: 20 U.S.C. 7475(b)(2))

§ 535.57 How shall the fellowship recipient account for the obligation?

(a) Within six months of the date a fellowship recipient meets the criteria in § 535.50(b)(1) or (2), the fellowship recipient shall submit to the Secretary one of the following items:

(1) A description of the activity in which the fellowship recipient is employed.

(2) Repayment required under §§ 535.51 and 535.52.

(3) A request to repay the obligation in installments.

(4) A request for a deferment or waiver as described in §§ 535.54 and 535.56 accompanied by a statement of justification.

(b) A fellowship recipient who submits a description of employment under paragraph (a)(1) of this section shall notify the Secretary on a yearly basis of the period of time during the preceding year that the fellowship recipient was employed in the activity.

(c) A fellowship recipient shall inform the Secretary of any change in employment status.

(d) A fellowship recipient shall inform the Secretary of any change of address.

(e)(1) A fellowship recipient's failure to timely satisfy the requirements in paragraphs (b) through (d) of this section results in the fellowship recipient being in non-compliance or default status subject to collection action.

(2) Interest and costs of collection may be collected in accordance with 31 U.S.C. 3717 and 34 CFR part 30.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475(b))