

for the proper and efficient administration of each program.

(Authority: 20 U.S.C. 2302(d) (A)–(D) and 2312(a))

§ 403.187 How may a State provide technical assistance?

(a) Except as provided in paragraph (b) of this section, a State may use only an amount of the funds reserved for each of the basic programs listed in § 403.60 and the special programs listed in § 403.130 to pay the costs of providing technical assistance that is necessary and reasonable to promote or enhance the quality and effectiveness of that program.

(b) A State may not use funds reserved under § 403.180(b)(1) for the Secondary School Vocational Education Program and the Postsecondary and Adult Vocational Education Program to pay the costs of providing technical assistance.

(c) In providing technical assistance under paragraph (a) of this section, a State may not use amounts to an extent that would interfere with achieving the purposes of the program for which the funds were awarded.

(Authority: 20 U.S.C. 2302(d) (A)–(D), 2312(a), and 2323(b)(5))

§ 403.188 What is a State’s responsibility for the cost of services and activities for members of special populations?

A State is not required to use non-Federal funds to pay the cost of services and activities that it provides to members of special populations pursuant to § 403.32(a) (18)–(26) or to pay the cost of services and activities that eligible recipients provide to members of special populations pursuant to §§ 403.111 (a)(2)(i) and (c)(3), 403.190(b), or 403.193, unless this requirement is imposed by other applicable laws.

(Authority: 20 U.S.C. 2328)

Subpart H—What Conditions Must be Met by Local Recipients?

§ 403.190 What are the requirements for receiving a subgrant or contract?

(a) Each eligible recipient desiring financial assistance under the Secondary

School Vocational Education Program or the Postsecondary and Adult Vocational Education Program must submit to the State board, according to requirements established by the State board, an application covering the same period as the State plan, for the use of that assistance. The State board shall determine requirements for local applications, except that each application must—

(1) Contain a description of—

(i) The vocational education program to be funded, including—

(A) The extent to which the program incorporates each of the requirements described in § 403.111 (a), (b), and (c); and

(B) How the eligible recipient will use the funds available under § 403.112, § 403.113, or § 403.116 and from other sources to improve the program with regard to each requirement and activity described in § 403.111 (c) and (d);

(ii) How the needs of individuals who are members of special populations will be assessed and the planned use of funds to meet those needs;

(iii) How access to programs of good quality will be provided to students who are economically disadvantaged (including foster children), students with disabilities, and students of limited English proficiency through affirmative outreach and recruitment efforts;

(iv) The program evaluation standards the applicant will use to measure its progress;

(v) The methods to be used to coordinate vocational education services with relevant programs conducted under the JTPA, including cooperative arrangements established with private industry councils established under section 102(a) of that Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

(vi) The methods used to develop vocational educational programs in consultation with parents and students of special populations;

(vii) How the eligible recipient coordinates with community-based organizations;

(viii) The manner and the extent to which the eligible recipient considered the demonstrated occupational needs

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of the area in assisting programs funded under the Act;

(ix) How the eligible recipient will provide a vocational education program that—

(A) Integrates academic and occupational disciplines so that students participating in the program are able to achieve both academic and occupational competence; and

(B) Offers coherent sequences of courses leading to a job skill; and

(x) How the eligible recipient will monitor the provision of vocational education to individuals who are members of special populations, including the provision of vocational education to students with individualized education programs developed under the IDEA;

(2) Provide assurances that—

(i) The programs funded under § 403.112, § 403.113, or § 403.116 will be carried out according to the requirements regarding special populations;

(ii) The eligible recipient will provide a vocational program that—

(A) Encourages students through counseling to pursue coherent sequences of courses;

(B) Assists students who are economically disadvantaged, students of limited English proficiency, and students with disabilities to succeed through supportive services such as counseling, English-language instruction, child care, and special aids;

(C) Is of a size, scope, and quality as to bring about improvement in the quality of education offered by the school; and

(D) Seeks to cooperate with the sex equity program carried out under § 403.91; and

(iii) The eligible recipient will provide sufficient information to the State to enable the State to comply with the requirements in § 403.113; and

(3) Contain a report on the number of individuals in each of the special populations.

(b) Each eligible recipient desiring financial assistance under title II of the Act must provide assurances to the State board that, with respect to any project that is funded under a basic program listed in § 403.60 or a special program listed in § 403.130, it will—

(1) Assist students who are members of special populations to enter vocational education programs, and, with respect to students with disabilities, assist in fulfilling the transitional service requirement of section 626 of the IDEA;

(2) Assess the special needs of students participating in projects receiving assistance under a basic program listed in § 403.60 or a special program listed in § 403.130, with respect to their successful completion of the vocational education program in the most integrated setting possible;

(3) Provide supplementary services, as defined in 34 CFR 400.4(b), to students who are members of special populations;

(4) Provide guidance, counseling, and career development activities conducted by professionally trained counselors and teachers who are associated with the provision of those special services; and

(5) Provide counseling and instructional services designed to facilitate the transition from school to post-school employment and career opportunities.

(c) Each eligible recipient desiring financial assistance under Title II of the Act must provide the services and activities described in paragraph (b) of this section, to the extent possible with funds awarded under the Act, and indicate in its local application whether any non-Federal funds will be used for this purpose.

CROSS-REFERENCE: See § 403.193(e).

(d) Each eligible recipient desiring financial assistance under the Act shall provide sufficient information to the State, as the State board requires, to demonstrate to the State board that the eligible recipient's projects comply with § 403.32(a)(18)–(26).

(e) Each eligible recipient desiring financial assistance under the Act shall—

(1) Provide the assurance described in § 403.14(a)(2); and

(2) Include in its application, as appropriate—

(i) The number of disabled students, economically disadvantaged students, and students with limited English proficiency in its vocational program;

(ii) An assessment of the vocational needs of its students with disabilities, economically disadvantaged students, and students with limited English proficiency; and

(iii) A plan to provide supplementary services sufficient to meet the needs identified in the assessment described in paragraph (e)(2)(ii).

(Approved by the Office of Management and Budget under Control No. 1830-0030)

(Authority: 20 U.S.C. 2321(c)(1), (d), (e); 2328; and 2343)

§ 403.191 What are the requirements for program evaluation?

(a)(1) Beginning in the 1992-1993 school year, each recipient of financial assistance under §403.112, §403.113, or §403.116 shall evaluate annually the effectiveness of the particular projects, services, and activities receiving assistance under a basic program listed in §403.60, or a special program listed in §403.130, unless the State board determines pursuant to §403.201(a)(3) that a broader evaluation is required. A recipient may conduct the evaluation required under this paragraph by evaluating either the entire population of participants or a representative sample of participants.

(2) The annual evaluation must be based on the standards and measures developed by the State board in accordance with §§403.201 and 403.202, including any modifications made by the recipient in accordance with paragraph (b) of this section.

(b)(1) Each recipient may modify the State standards and measures based on—

(i) Economic, geographic, or demographic factors; or

(ii) The characteristics of the populations to be served.

(2) Modifications must conform to the assessment criteria contained in the State plan.

(c) Each recipient, as part of the annual evaluation required in paragraph (a) of this section, and with the full participation of representatives of special populations, shall—

(1) Identify and adopt strategies to overcome barriers that are resulting in lower rates of access to, or success in, vocational education programs for members of special populations; and

(2) Evaluate the progress of individuals who are members of special populations.

(d) Each recipient, as a part of the annual evaluation required in paragraph (a) of this section, shall evaluate its progress in providing vocational education students with strong experience in and understanding of all aspects of the industries the students are preparing to enter.

(e) Each recipient may use funds awarded under a basic program listed in §403.60 or a special program listed in §403.130 to support the cost of conducting the evaluation required under paragraphs (a) through (d) of this section to the extent that the costs are—

(1) Reasonable and necessary;

(2) Related to the purposes for which the funds were awarded; and

(3) Consistent with applicable requirements, such as the requirement in §403.196 to use funds awarded under title II of the Act to supplement, and not to supplant, State and local funds.

(Authority: 20 U.S.C. 2325(a) and 2327(a))

§ 403.192 What are the requirements for program improvement?

(a) If, beginning not less than one year after implementing the program evaluation required in §403.191, a recipient determines, through its annual evaluation, that it is not making substantial progress in meeting the standards and measures developed by the State under §§403.201 and 403.202, the recipient shall develop a plan for program improvement for the succeeding school year.

(b) The plan must be developed in consultation with teachers, parents, and students concerned with or affected by the program, and must describe how the recipient will identify and modify projects, services, and activities receiving assistance under the programs listed in §§403.60 and 403.130 that are in need of improvement, including a description of—

(1) Vocational education and career development strategies designed to achieve progress in improving the effectiveness of the recipient's projects, services, and activities receiving assistance under the programs listed in §§403.60 and 403.130 evaluated under §403.191(a)(1); and

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(2) If necessary, the strategies designed to improve supplementary services provided to individuals who are members of special populations.

CROSS REFERENCE: See 34 CFR 403.204.

(Approved by the Office of Management and Budget under Control No. 1830-0030)

(Authority: 20 U.S.C. 2327(b))

§ 403.193 What are the information requirements regarding special populations?

(a)(1) Each local educational agency that receives funds under Title II of the Act shall provide to students who are members of special populations and their parents information concerning—

- (i) The opportunities available in vocational education;
- (ii) The requirements for eligibility for enrollment in those vocational education programs;
- (iii) Special courses that are available;
- (iv) Special services that are available;
- (v) Employment opportunities; and
- (vi) Placement.

(2) Each area vocational education school or intermediate educational agency that receives funds under title II of the Act shall provide the information described in paragraph (a)(1) of this section to the students who are members of special populations and their parents in any local educational agency whose allocation was distributed in its entirety under § 403.113 to the area vocational education school or intermediate educational agency.

(b) The information described in paragraph (a)(1) of this section must be provided at least one year before the students enter, or are of an appropriate age for, the grade level in which vocational education programs are first generally available in the State, but in no case later than the beginning of the ninth grade.

(c) Each eligible institution or consortium of eligible institutions that receives funds under Title II of the Act shall—

(1) Provide the information described in paragraph (a)(1) of this section to each individual who requests information concerning, or seeks admission to, vocational education programs offered

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by the institution or consortium of eligible institutions; and

(2) If appropriate, assist in the preparation of applications relating to that admission.

(d) Information described under paragraph (a)(1) of this section must, to the extent practicable, be in a language and form that parents and students understand.

(e) An eligible recipient is not required by this part to use non-Federal funds to pay the cost of services and activities required by this section and §§ 403.111(a)(2)(i) and (c)(3) and 403.190(b) unless this requirement is imposed by other applicable laws.

(Authority: 20 U.S.C. 2328(b) and (c) and 2342(a) and (c)(1)(C))

[57 FR 36735, Aug. 14, 1992, as amended at 59 FR 38513, July 28, 1994]

§ 403.194 What are the comparability requirements?

(a) A local educational agency may receive an award of Federal funds under the State plan only if—

(1) The local educational agency uses State and local funds to provide services in secondary schools or sites served with Federal funds awarded under the State plan that, taken as a whole, are at least comparable to those services being provided in secondary schools or sites that are not being served with Federal funds awarded under the State plan; or

(2) In the event that the local educational agency serves all its secondary schools or sites with Federal funds awarded under the State plan, the local educational agency uses State and local funds to provide services that, taken as a whole, are substantially comparable in each secondary school or site.

CROSS-REFERENCE: See appendix B to part 403.

(b) The comparability requirements in paragraph (a) of this section do not apply to—

(1) A local educational agency with only one secondary school or site; or

(2) A consortium composed of more than one local educational agency, except that, within a consortium, each local educational agency itself must meet the comparability requirements

unless it is exempt under paragraph (b)(1) of this section.

(c)(1) A local educational agency shall develop written procedures for complying with the comparability requirements in paragraph (a) of this section, including a process for demonstrating annually that State and local funds are used to provide services in served schools and sites that are at least comparable to the services provided with State and local funds in schools or sites in the local educational agency that are not served with funds awarded under the State plan.

(2) In reaching the determination as to whether comparability requirements in paragraph (a) of this section were met, the local educational agency's written procedures—

(i) Do not have to take into account unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year; and

(ii) May not take into account any State and local funds spent in carrying out the following types of programs:

(A) Special local programs designed to meet the educational needs of educationally deprived children, including compensatory education for educationally deprived children, that were excluded in the preceding fiscal year from comparability determinations under section 1018(d)(1)(B) of chapter 1 (20 U.S.C. 2728(d)(1)(B)).

(B) Bilingual education for children of limited English proficiency.

(C) Special education for children with disabilities.

(D) State phase-in programs that were excluded in the preceding fiscal year from comparability determinations under section 1018(d)(2)(B) of chapter 1 (20 U.S.C. 2728(d)(2)(B)).

(Approved by the Office of Management and Budget under Control No. 1830-0030)

(Authority: 20 U.S.C. 2323(b)(19))

§ 403.195 What are the administrative cost requirements applicable to local recipients?

(a) Except as provided in paragraphs (b) and (c) of this section, each eligible recipient, including a State corrections educational agency, that receives an award under a basic program listed in § 403.60 or a special program listed in

§ 403.130, may use no more than the amount of funds from each award that is necessary and reasonable for the proper and efficient administration of the projects, services, and activities for which the award was made.

(b) Each eligible recipient that receives an award under § 403.112, § 403.113, or § 403.116 may use no more than five percent of those funds for administrative costs.

(c) Each eligible partner that receives an award under the Business-Labor-Education Partnership for Training Program may use no more funds under that award for administrative costs than the amounts prescribed in § 403.173(b).

(Authority: 20 U.S.C. 2342(c); 2393(a)(1) and (c))

§ 403.196 What are the requirements regarding supplanting?

(a) Funds made available under title II of the Act must be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of funds under title II of the Act be made available for the purposes specified in the State plan and the local application.

(b) Notwithstanding paragraph (a) of this section and § 403.32(a)(17), funds made available under title II of the Act may be used to pay the costs of vocational education services required by an individualized education program developed pursuant to sections 612(4) and 614(a)(5) of the IDEA (20 U.S.C. 1412(4) and 1414(a)(5)), in a manner consistent with section 614(a)(1) of that Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

(c) Any expenditures pursuant to paragraph (b) of this section must increase the amount of funds that would otherwise be available to meet the costs of an individualized education program or to comply with section 504 of the Rehabilitation Act of 1973.

(Authority: 20 U.S.C. 2468e(a)(1))

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§ 403.197 What are the requirements for the use of equipment?

(a) Equipment purchased with funds under § 403.112, § 403.113, or § 403.116, when not being used to carry out the purposes of the Act for which it was purchased, may be used for other vocational education purposes if the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Program.

(b) Equipment purchased with funds under § 403.112, § 403.113, or § 403.116, when not being used to carry out the purposes of the Act for which it was purchased or other vocational education purposes, may be used for other instructional purposes if—

(1) The acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Program; and

(2) The other use of the equipment is after regular school hours or on weekends.

(c) The use of equipment under paragraphs (a) and (b) of this section must—

(1) Be incidental to the use of that equipment for the purposes under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Program for which it was purchased;

(2) Not interfere with the use of that equipment for the purposes under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Program for which it was purchased; and

(3) Not add to the cost of using that equipment for the purposes under the Secondary School Vocational Education Program or the Postsecondary and Adult Vocational Education Program for which it was purchased.

(Authority: 20 U.S.C. 2342(c)(3))

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Subpart I—What Are the Administrative Responsibilities of a State Under the State Vocational and Applied Technology Education Program?

§ 403.200 What are the State’s responsibilities for ensuring compliance with the comparability requirements?

(a) The State board may not make a payment under the Act to a local educational agency unless the LEA is in compliance with § 403.194. As indicated in § 403.194(a), an LEA may demonstrate its compliance with the comparability requirements by filing an appropriate assurance.

(b) The State board shall monitor each local educational agency’s compliance with the comparability requirements in § 403.194.

(c) If, after a local educational agency receives an award of Federal funds under the State plan, the local educational agency is found not to be in compliance with the comparability requirements, the State board shall—

(1) Withhold all or a portion of the local educational agency’s grant award, but not less than the amount or percentage by which the local educational agency failed to achieve comparability under the local educational agency’s procedures established pursuant to § 403.194(c); or

(2) Require repayment of the amount or percentage by which the local educational agency failed to achieve comparability if the local educational agency is found not to be in compliance after the period of availability of the funds awarded has ended.

(Authority: 20 U.S.C. 2323(b)(19))

§ 403.201 What are the State’s responsibilities for developing and implementing a statewide system of core standards and measures of performance?

(a)(1) Each State board receiving funds under the Act shall develop and implement a statewide system of core standards and measures of performance for secondary, postsecondary, and adult vocational education programs.

(2) This system must—

(i) Be developed and implemented by September 25, 1992; and