

visiting team and the faculty, administrative staff, students, and other appropriate persons;

(ii) Furnishes as a result of the evaluation visit, a written report to the institution or program commenting on areas of strength, areas needing improvement, and, when appropriate, suggesting means of improvement and including specific areas, if any, where the institution or program may not be in compliance with the agency's standards;

(iii) Provides the chief executive officer of the institution or program with opportunity to comment upon the written report and to file supplemental materials pertinent to the facts and conclusions in the written report of the visiting team before the agency takes action on the report;

(iv) Provides the chief executive officer of the institution with a specific statement of reasons for any adverse action, and notice of the right to appeal such action before an appeal body designated for that purpose;

(v) Publishes rules of procedure regarding appeals;

(vi) Continues the approval status of the institution or program pending disposition of an appeal;

(vii) Furnishes the chief executive officer of the institution or program with a written decision of the appeal body, including a statement of its reasons therefor.

(c) *Credit-hour policies.* The State agency, as part of its review of an institution for initial approval or renewal of approval, must conduct an effective review and evaluation of the reliability and accuracy of the institution's assignment of credit hours.

(1) The State agency meets this requirement if—

(i) It reviews the institution's—

(A) Policies and procedures for determining the credit hours, as defined in 34 CFR 600.2, that the institution awards for courses and programs; and

(B) The application of the institution's policies and procedures to its programs and coursework; and

(ii) Makes a reasonable determination of whether the institution's assignment of credit hours conforms to commonly accepted practice in higher education.

(2) In reviewing and evaluating an institution's policies and procedures for determining credit hour assignments, a State agency may use sampling or other methods in the evaluation, sufficient to comply with paragraph (c)(1)(i)(B) of this section.

(3) The State agency must take such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations under paragraph (c)(1)(i) and (ii) of this section, as it does in relation to other deficiencies it may identify, subject to the requirements of this part.

(4) If, following the institutional review process under this paragraph (c), the agency finds systemic noncompliance with the agency's policies or significant noncompliance regarding one or more programs at the institution, the agency must promptly notify the Secretary.

(d) *Capacity to foster ethical practices.* The State agency must demonstrate its capability and willingness to foster ethical practices by showing that it:

(i) Promotes a well-defined set of ethical standards governing institutional or programmatic practices, including recruitment, advertising, transcripts, fair and equitable student tuition refunds, and student placement services;

(ii) Maintains appropriate review in relation to the ethical practices of each approved institution or program.

(Authority: 20 U.S.C. 1094(c)(4))

[39 FR 30042, Aug. 20, 1974, as amended at 75 FR 66947, Oct. 29, 2010]

## PART 604—FEDERAL-STATE RELATIONSHIP AGREEMENTS

### Subpart A—General

Sec.

604.1 Federal-State relationship agreements.

604.2 Regulations that apply to Federal-State relationship agreements.

604.3 Definitions that apply to Federal-State relationship agreements.

### Subpart B—Federal-State Relationship Agreements

604.10 Administrative requirements.

604.11 Planning requirements.

604.12 Changes in the agreement.

**Ofc. of Postsecondary Educ., Education**

**§ 604.11**

604.13 Denial of eligibility.

AUTHORITY: Sec. 1203 of the Higher Education Act of 1965, as amended by Pub. L. 96-374 (20 U.S.C. 1143), unless otherwise noted.

SOURCE: 45 FR 83221, Dec. 18, 1980, unless otherwise noted.

**Subpart A—General**

**§ 604.1 Federal-State relationship agreements.**

(a) A State shall enter into an agreement with the Secretary if it wishes to participate in the following programs authorized by the Higher Education Act of 1965, as amended: The Continuing Education Outreach program, title I-B, with the exception of sections 116 and 117 of the Act; the State Student Incentive Grant program, subpart 3 of title IV-A of the Act; and the Undergraduate Academic Facilities Grant program, title VII-A of the Act. The agreement must contain assurances relating to administration, financial management, treatment of applicants for subgrants and contracts, supplement, not supplant requirements, and planning. These assurances are listed in subpart B of this part. The means by which these assurances will be met must also be described.

(b) The provisions of the agreement replace comparable provisions in annual plans previously required by each applicable program.

(Authority: 20 U.S.C. 1143)

**§ 604.2 Regulations that apply to Federal-State relationship agreements.**

The following regulations apply to Federal-State relationship agreements:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 76 (State Administered Programs) and 34 CFR part 77 (Definitions).

(b) The regulations in this part 604.

(Authority: 20 U.S.C. 1232(a))

**§ 604.3 Definitions that apply to Federal-State relationship agreements.**

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR part 77:

Applicant  
Application  
Contract

Private  
Public  
Secretary  
State  
Subgrant

(b) *Definitions that apply to this part.* The following definitions apply to this part:

*Act* means the Higher Education Act of 1965, as amended.

*Applicable programs* means the Continuing Education Outreach program, the State Student Incentive Grant program, and the Undergraduate Academic Facilities Grant program.

(Authority: 20 U.S.C. 1143)

**Subpart B—Federal-State Relationship Agreements**

**§ 604.10 Administrative requirements.**

The agreement shall contain the following assurances and a description of the means by which they will be met:

(a) Management practices and procedures will assure proper and efficient administration of each applicable program. The description of these methods shall include the identification of the State entity or entities designated to administer each applicable program as well as the name of the responsible official.

(b) Appropriate fiscal control and fund accounting procedures will be provided for Federal funds received under all titles of the Act.

(c) Federal funds under the applicable programs will not supplant non-Federal funds.

(d) Equitable and appropriate criteria will be used in evaluating applications for subgrants or proposals for contracts under each applicable program.

(Authority: 20 U.S.C. 1143)

**§ 604.11 Planning requirements.**

(a) The agreement shall contain an assurance by the State that it has a comprehensive planning or policy formulation process which:

(1) Considers the relationship between State administration of each applicable program and administration of similar State programs or processes;

## § 604.12

(2) Encourages State policies that consider the effects of declining enrollments on all sectors of postsecondary education within the State;

(3) Considers the postsecondary educational needs of unserved and underserved individuals within the State, including individuals beyond traditional college age;

(4) Considers the resources of public and private institutions, organizations, and agencies within the State that are capable of providing postsecondary educational opportunities; and

(5) Provides for direct, equitable, and active participation in the comprehensive planning or policy formulation processes by representatives of institutions of higher education—including community colleges, proprietary institutions, and independent colleges and universities—other providers of postsecondary education services, students, and the general public in the State.

(i) Participation shall be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(ii) Participation shall be consistent with State law.

(b) The agreement shall include a description of the planning or policy formulation process through which these assurances will be fulfilled.

(Authority: 20 U.S.C. 1143)

### § 604.12 Changes in the agreement.

(a) The agreement shall remain in effect until substantial changes in administrative practices or planning processes would require its modification.

(b) Routine organizational or personnel changes are not subject to prior modification of the agreement, but information concerning these changes shall be promptly communicated to the Secretary.

(Authority: 20 U.S.C. 1143)

### § 604.13 Denial of eligibility.

(a) If the Secretary finds that there is a failure to comply substantially with the assurances of § 604.10 then the Secretary, after giving a State reason-

## 34 CFR Ch. VI (7–1–11 Edition)

able notice and the opportunity for a hearing, shall notify the State that it is ineligible to participate in any applicable program.

(b) To regain eligibility, a State must satisfy the Secretary that the failure to comply has been remedied.

(Authority: 20 U.S.C. 1143)

## PART 606—DEVELOPING HISPANIC-SERVING INSTITUTIONS PROGRAM

### Subpart A—General

Sec.

606.1 What is the Developing Hispanic-Serving Institutions Program?

606.2 What institutions are eligible to receive a grant under the Developing Hispanic-Serving Institutions Program?

606.3 What is an enrollment of needy students?

606.4 What are low educational and general expenditures?

606.5 How does an institution apply to be designated an eligible institution?

606.6 What regulations apply?

606.7 What definitions apply?

606.8 What is a comprehensive development plan and what must it contain?

606.9 What are the type, duration, and limitations in the awarding of grants under this part?

606.10 What activities may and may not be carried out under a grant?

### Subpart B—How Does an Institution Apply for a Grant?

606.11 What must be included in individual development grant applications?

606.12 What must be included in cooperative arrangement grant applications?

606.13 How many applications for a development grant may an institution submit?

### Subpart C—How Does the Secretary Make an Award?

606.20 How does the Secretary choose applications for funding?

606.21 What are the selection criteria for planning grants?

606.22 What are the selection criteria for development grants?

606.23 What special funding consideration does the Secretary provide?

606.24 How does the Secretary use an applicant's performance under a previous development grant when awarding a development grant?

606.25 What priority does the Secretary use in awarding cooperative arrangement grants?