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Service Obligation of Students Receiving Financial Assistance Through OSEP-Funded Personnel Preparation Projects: Key Points From Final Regulations

These regulations implement changes adopted as part of the Individuals with Disabilities Education Act (IDEA) amendments of 1997, and became effective as of January 10, 2000. The full text of the regulations appears in the *Federal Register* of December 9, 1999 (Volume 64, Number 236, pp. 69137-69147). This information may be accessed on the Internet at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm> OR <http://www.ed.gov/news.html>

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request from the following contact person.

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This summary presents key points from the regulations (and/or in the accompanying discussion of comments) in the language in which they were written. This summary was prepared by the Alliance Project to assist higher education institutions (IHEs) in the implementation of these regulations. However, IHEs are strongly encouraged to refer to the full text of the regulations and discussion, as noted above, for complete official guidance.

"(T)he regulations establish procedures to implement section 673(h) of IDEA, which requires that individuals who receive a scholarship through personnel preparation projects funded under the Act must subsequently provide special education and related services to children with disabilities (or, for leadership personnel, work in areas related to their preparation) for a period of two years for every year for which assistance was received. Scholarship recipients who do not satisfy their service obligation must repay all or part of the cost of their assistance in accordance with the regulations."

Definitions

'''(S)cholarship' . . . refer(s) to all types of financial assistance that a scholar might receive under an IDEA-funded project, including assistance used to pay

for student fees, stipends, books, travel, as well as tuition. . . . (T)he service requirement (is based) on the period for which the scholar receives assistance, not on the amount of assistance an individual receives."

"A **full-time course of study**" (is) (t)aken for a period totaling at least nine months; or . . . taken for the equivalent of at least two semesters, two trimesters, or three quarters; or . . . (f)or a **part-time student**, the accumulation of periods of part-time courses of study that is equivalent to an 'academic year.'"

"Full-time, for purposes of determining whether an individual is **employed full-time** . . . , means a full-time position as defined by the individual's employer or by the agencies served by the individual."

"**Payback** means monetary repayment of scholarship assistance in lieu of completion of a service obligation."

Conditions Pertaining to Grantees

"(F)or each personnel training grant competition, a specific percentage, up to 75 percent, of a grantee's total award . . . must be used to support scholarships. . . . (B)ecause financial support for **graduate assistants** is not considered scholarship assistance, such costs may not be paid from the minimum percentage of grant funds that must be used to support scholarships."

"**Before disbursement** of scholarship assistance to an individual, a grantee must: (a) Ensure that the scholar is (1) a citizen or national of the United States; (2) is a permanent resident of Puerto Rico, the United States, Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau (during the period in which these entities are eligible to receive an award under the program; or
(3) provides evidence from the U.S. Immigration and Naturalization Service that the individual is a lawful permanent resident of the United States, or in the United States for other than a temporary purpose, with the intention of becoming a citizen or permanent resident.
(b) Limit scholarship assistance to the amount by which the individual's cost of attendance at the institution exceeds the amount of grant assistance the scholar is to receive for the same academic year under Title IV of the Higher Education Act; and
(c) Obtain a Certification of Eligibility for Federal Assistance from each scholar."

"Each scholar who will receive a scholarship must first enter into a **written agreement** with the grantee that contains the terms and conditions required by (the regulations)."

"(T)he period of the scholar's service obligation must be calculated based on the period for which the student was enrolled in a full-time course of study. . . . Colleges and universities that award IDEA-funded scholarships to **part-time students** must, therefore, add up the period for which a part-time scholar receives a scholarship and calculate the number of accumulated full-time academic years for which the student received financial assistance. For example, a scholar who obtains a degree after attending a university on a half-time basis for four academic years would accumulate two full-time academic years of assistance and have a four-year service obligation (two years for each year of assistance) upon completion of the program."

"(S)cholars, in effect, will be authorized to receive financial assistance for the **same period as that which applies to the grant**" (which provides the assistance). . . . Scholars may also receive assistance under subsequent grants in order to obtain additional training (e.g., doctoral, postdoctoral training)."

"(I)mposing an across-the-board rule for scholarship recipients to consult the Federal Government regarding the appropriateness of their work setting would be overly burdensome to scholars. Therefore, the regulations, consistent with the Act, rely on the expertise of the grantee institution to **assist its scholars in obtaining an appropriate job** (or jobs) among the many employment options available to the individual following training."

"**Grantee institutions (are) responsible** for ensuring that their former scholars comply with the service obligation requirements and for notifying the Department if a scholar fails to fulfill his or her obligation. Since **no specific type of 'tracking system'** is required, grantees are free to utilize existing practices at their institutions (e.g., alumni office procedures or university accreditation practices for reporting on the progress and employment status of former graduates), modify those practices, or develop new procedures specific to graduates of IDEA training programs. Regardless of the approach, we expect that the costs incurred . . . will be primarily the initial costs of establishing the institution's policies and procedures for following former scholars."

"A grantee would provide assurances to the Department that it has established **policies or procedures** to address . . . scholarship repayment; the grantee's standards for measuring a scholar's academic progress; the grantee's responsibility for ensuring compliance with the service obligation requirements; and the grantee's procedures for notifying scholars in writing of their service obligation upon their exit from the training project. . . . The grantee must establish policies and procedures for receiving written certification from scholars at the time of exit from the program that identifies:

- (1) The number of years the scholar needs to work to satisfy the work requirements . . . ;
- (2) The total amount of scholarship assistance received, subject to the work-or-repay provision . . . ;
- (3) The time period . . . during which the scholar must satisfy the work requirements . . . ;
- (4) All other obligations of the scholar."

Grantees are required "to **notify the Department** at the time an individual has failed to fulfill or has chosen not to fulfill the applicable service obligations within the appropriate time period."

"(I)n some instances, an institution may be **unable to locate a former scholar**, regardless of its persistency in doing so. (In such cases) the institution must notify the Department of the individual's possible noncompliance."

"The grantee must maintain the information (**records**) . . . related to a scholar for a period of time equal to the time required to fulfill the obligation."

Conditions Pertaining to the Scholar

"(R)requirements that a scholar must meet in order to receive a scholarship under the program (include): (a) being enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services; (b) entering into a written agreement with the grantee establishing the service obligation requirements; (c) receiving training at the institution or agency designated in the scholarship; (d) not accepting educational allowances from any other entity if that allowance conflicts with the individual's obligations under the program; (e) maintaining satisfactory academic progress; and (f) providing information to the grantee. . . . Scholars are also required "to notify the grantee institution of changes in address, employment setting, or employment status throughout the duration of the service obligation . . . and their progress toward meeting the work requirements."

"(T)he regulations apply to **training program dropouts** in the same manner as other scholarship recipients. . . . (D)ropouts who had received scholarship assistance would not be able to meet their service obligation (and therefore must payback their scholarship) if they are not qualified to fill available special education, related service, or early intervention jobs that meet the requirements."

The service obligation provisions of the final regulations authorize "a **scholar to serve in a position in which the individual spends a majority of his or her time providing special education, related, or early intervention services**. Thus, a former scholar who provides services under Part B or Part C of IDEA. . . to children with disabilities, would satisfy (the requirement), as long as a majority of his or her students are children with disabilities receiving services. . . from the individual . . . or the individual expends a majority of his or her time providing services under Part B or Part C. . . . The final regulations permit . . . a scholar to work with children with disabilities in the **regular education classroom**. If the individual's primary purpose for being in a regular education classroom is to provide IDEA-related services to children with disabilities, then that individual would be considered to be providing IDEA-related services to children with disabilities during the time the individual is in that regular education classroom . . . , even though one or more nondisabled children may benefit from that individual working in the classroom."

"On the other hand, a **current regular education teacher** who accepts scholarship assistance under an IDEA personnel training program, like all other IDEA-funded scholars, must subsequently work in the special education, related service, or early intervention field (or payback the scholarship)."

In some States, "'**at risk' infants and toddlers** qualify as infants and toddlers with disabilities and are eligible to receive early intervention services under Part C. Thus, whether a former scholar of an early intervention training program who is providing early intervention services to infants and toddlers with identified disabilities or developmental delays, and to at-risk infants and toddlers, would meet the service obligation requirements . . . may depend upon whether the State has elected to serve at-risk infants and toddlers under Part C of IDEA. If the State has elected to serve at-risk infants and toddlers under its Part C program, and the scholar works full-time with that population, then . . . the regulations would be satisfied. On the other hand, if the State does not serve at-risk infants and toddlers under Part C, then the scholar

could still satisfy the regulations by serving mostly Part C-eligible children or spending a majority of his or her time providing Part C services to such children."

"The regulations do not limit a scholar's **opportunities for advancement**, as long as the position to which the former scholar advances meets the service obligation requirement in this section. For example, a former scholar who . . . subsequently works as a special education teacher, and then advances into a position as a special education administrator, would continue to meet the requirements . . . if the majority of students for which the administrator is responsible are receiving services under either Part B or C of IDEA. On the other hand, a secondary school principal position, in which the administrator is responsible for the entire student population (a majority of which is not disabled) likely would not qualify as an appropriate work setting under the regulations."

"In cases in which a scholarship recipient is **both completing training and working in a job** that would satisfy the service obligation requirements (e.g., the special education teacher who provides Part B services to a majority of his or her students),

"(I)t is expected that scholarship recipients fulfill a service obligation that is sufficiently related to the training for which assistance was provided. Because some persons may work in this type of job before completing training, the final regulations authorize scholars to count toward the period of their service obligation requirement, **work that is performed after the completion of one full-time academic year of training** The applicable job must meet the work setting . . . requirements . . . , and the individual must fulfill the remaining portion of the service obligation upon completion of the training."

"**(P)art-time employment** is authorized. However, because an individual's service obligation is based on full-time employment, a part-time worker must still meet the full-time obligation by accumulating the periods of part-time work by the end of the regulatory period (i.e., the sum of the number of years required plus three additional years). For example, a scholar who received two years of financial assistance would have seven years to complete a four-year service obligation. If that scholar . . . works full-time for an initial two years and half-time for the next four (i.e., the equivalent of two full-time years), this individual would meet the service obligation."

"**If a scholar fails to meet the terms and conditions** of a scholarship agreement . . . or to obtain a deferral or an exception . . . , the scholar must repay all or part of the scholarship assistance to the Secretary as follows:

- (a) Amount. The amount of the scholarship to be repaid is proportional to the service obligation not completed.
- (b) Interest. The Secretary charges the scholar interest on the unpaid balance owed . . .
- (c) Interest accrual. (1) Interest on the unpaid balance accrues from the date the scholar is determined to have entered repayment status . . . ; (2) any accrued interest is capitalized at the time the scholar's repayment schedule is established; (3) no interest is charged for the period of time the scholar's repayment schedule is established.
- (d) Collection costs. . . . (T)he Secretary may impose reasonable collection costs.
- (e) Repayment status. A scholar enters repayment status on the first day of the first calendar month after the earliest of the following dates, as applicable: (1) the date the scholar informs the grantee that he or she does not plan to fulfill the service obligation under the agreement;

(2) any date when the scholar's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required; (3) any date on which the scholar discontinues enrollment in the course of study."

- (f) Amounts and frequency of payment. The scholar must make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary."

Requirements for Obtaining a Deferral or Exemption to Performance or Repayment Under an Agreement

"(T)he final regulations provide for **an additional three years**, beyond the number of years required by the Act, to complete the service obligation. Thus, a scholar with a four-year service obligation, for example, has seven years to fulfill that requirements. The additional three-year time period in the regulations is intended to provide greater flexibility in meeting the work obligation for those former scholars who become pregnant, experience short-term illness, relocate, or for other reasons choose not to work full-time or in successive years."

"An **exemption** to the repayment requirement . . . may be granted, in whole or in part, if the scholar:

- (1) Is unable to continue the course of study or perform the service obligation because of a disability that is expected to continue indefinitely; or
- (2) Has died."

"**Deferral** of the repayment requirement . . . may be granted during the time the scholar:

- (1) Is engaging in a full-time course of study at an institution of higher education;
- (2) Is serving, not in excess of three years, on active duty as a member of the armed services of the United States;
- (3) Is serving as a volunteer under the Peace Corps Act;
- (4) Is serving as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973;
- (5) Has a disability which prevents the individual from working for a period not to exceed three years; or
- (6) Is unable to secure employment as required by the agreement for reason of the care provided to a disabled family member for a period not to exceed 12 months."

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