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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 208

[Docket ID: DOD-2013-OS-0021]

RIN 0790-AJ01

National Security Education Program (NSEP) and NSEP Service Agreement

AGENCY: Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements the responsibilities of the Secretary of Defense for administering the National Security Education Program (NSEP) and explains the responsibilities of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) for policy and funding oversight for NSEP. It discusses requirements for administering and executing the NSEP service agreement and; and assigns oversight of NSEP to the Defense Language and National Security Education Office (DLNSEO).

DATES: This final rule is effective on [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Alison Patz, 571-256-0771.

SUPPLEMENTARY INFORMATION:

On November 9, 2015, the Department of Defense published a proposed rule titled, “National Security Education Program (NSEP) and NSEP Service Agreement,” (80 FR 69166-69171) for a 60-day public comment period. The public comment period closed on January 8, 2016. No public comments were received.

After the 60-day public comment period for the proposed rule, minor administrative edits were made to provide clarity or remove outdated, unnecessary, or confusing language in the regulatory text due to an internal DoD re-organization. Offices and symbols have been updated to reflect the most current organizational structure.

Background

The David L. Boren National Security Education Act of 1991 (Title VIII, Pub. L. 102-183), as amended, codified at 50 U.S.C. 1901 et seq (NSEA), mandated that the Secretary of Defense create and sustain a program to award scholarships to U.S. undergraduate students, fellowships to U.S. graduate students, and grants to U.S. institutions of higher education.

The NSEP is authorized through 50 U.S.C. 1901-1912 to award scholarships, fellowships, and grants to institutions of higher education in order to increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign languages, area studies, counterproliferation studies, and other international fields that are critical to the Nation's interest, as well as to produce an increased pool of applicants for working the departments and agencies of the United States Government with national security responsibilities.

NSEP oversees nine national security language and culture initiatives designed to attract, recruit, and train a future federal workforce skilled in languages and cultures to work across all agencies involved in national security. These initiatives support professional proficiency language training at U.S. colleges and universities, as well as support students to study overseas in regions critical to U.S. national security through scholarships and fellowships.

The final rule outlines requirements applicable to the NSEP office and NSEP award recipients.

This includes information about the NSEP service agreement, which award recipients must

adhere to as a condition of award. In exchange for support, NSEP awardees must work in qualifying national security positions in the U.S. federal government for at least one year.

Benefits:

NSEP, as outlined in the David L. Boren National Security Education Act of 1991, oversees multiple critical initiatives. All of NSEP's programs are designed to complement one another, ensuring that the lessons learned in one program inform the approaches of the others. Congress specifically – and uniquely – structured NSEP to focus on the combined issues of language proficiency, national security, and the needs of the federal workforce.

NSEA outlines five major purposes for NSEP, namely:

- To provide the necessary resources, accountability, and flexibility to meet the national security education needs of the United States, especially as such needs change over time;
- To increase the quantity, diversity, and quality of the teaching and learning of subjects in the fields of foreign languages, area studies, counterproliferation studies, and other international fields that are critical to the nation's interest;
- To produce an increased pool of applicants to work in the departments and agencies of the United States government with national security responsibilities;
- To expand, in conjunction with other federal programs, the international experience, knowledge base, and perspectives on which the United States citizenry, government employees, and leaders rely; and
- To permit the federal government to advocate on behalf of international education.

As a result, NSEP is the only federally-funded effort focused on the combined issues of language proficiency, national security, and the needs of the federal workforce.

- Boren Scholarships are awarded to U.S. undergraduates for up to one academic year of overseas study of languages and cultures critical to national security. Boren Scholars demonstrate their merit for an award in part by agreeing to fulfill a one year (minimum) service commitment to the U.S. government. NSEP awards approximately 150 Boren Scholarships annually.
- Boren Fellowships are awarded for up to two years to U.S. graduate students who develop independent projects that combine study of language and culture in areas critical to national security. Boren Fellows demonstrate their merit for an award in part by agreeing to fulfill a one year (minimum) service commitment to the U.S. government. NSEP awards approximately 100 Boren Fellowships annually.
- The Language Flagship supports students to achieve superior-level proficiency in critical languages including Arabic, Chinese, Hindi Urdu, Korean, Persian, Portuguese, Russian, Swahili, and Turkish. Flagship students combine language study with a major discipline of their choice and complete a year-long overseas program that includes intensive language study, direct enrollment in a local university, and a professional internship experience. In addition, The Language Flagship awards grants to U.S. universities recognized as leaders in the field of language education and supports new concepts in language education. More than 2,000 U.S. undergraduate students participate annually in The Language Flagship's programs, which are based at more than 20 U.S. institutions of higher education and multiple universities overseas.
- The Language Flagship also manages a Flagship/ROTC initiative, through which ROTC cadets and midshipmen are supported at Flagship institutions, thus building a cadre of

students with professional-level proficiency and commitment to serve in the U.S. armed forces.

- The English for Heritage Language Speakers (EHLS) program provides professional English language instruction for U.S. citizens who are native speakers of critical languages. Participants receive scholarships to the EHLS program at Georgetown University, which provides eight months of instruction. This training allows participants to achieve professional-level proficiency in the English language and prepares them for key federal job opportunities. NSEP awards approximately 20 EHLS Scholarships annually.
- The African Flagship Languages Initiative (AFLI) is a Flagship language program, designed in cooperation with Boren Scholarships and Fellowships, to improve proficiency outcomes in a number of targeted African languages. The Intelligence Authorization Act for Fiscal Year 2010, Section 314 (Pub. L. 111-259) initially directed the establishment of a pilot program to build language capabilities in areas critical to U.S. national security interests, but where insufficient instructional infrastructure currently exists domestically. Based on the successes of its many critical language initiatives, NSEP was designated to spearhead the effort. All AFLI award recipients are funded through either a Boren Scholarship or Boren Fellowship. Participants complete eight weeks of domestic language study at the University of Florida prior to departure overseas, followed by intensive, semester-long study internationally. AFLI's current language offerings include Akan/Twi, French (for Senegal), Hausa, Portuguese (for Mozambique), Swahili, Wolof, and Zulu

- The National Language Service Corps (NLSC) is a civilian corps of volunteers with certified proficiency in foreign languages. Its purpose is to support DoD or other U.S. departments or agencies in need of foreign language services, including surge or emergency requirements. NLSC capabilities include language support for interpretation, translation, analysis, training, logistics activities, and emergency relief activities. Members generally possess professional-level proficiency in a foreign language and in English, and may have clearances or may be clearable.
- Project GO provides grants to U.S. institutions of higher education with large ROTC student enrollments, including the Senior Military Colleges. In turn, these institutions provide language and culture training to ROTC students from across the nation, funding domestic and overseas ROTC language programs and scholarships. To accomplish Project GO's mission, NSEP closely works with Army, Air Force, and Navy ROTC Headquarters, as well as with U.S. institutions of higher education. To date, institutions participating in the program have supported critical language study for over 3,000 ROTC students nationwide. More than 20 domestic institutions host Project GO programs serving ROTC students from across the country.
- Language Training Centers (LTC) are a collaborative initiative to develop expertise in critical languages, cultures and strategic regions for DoD personnel. Section 529(e) of the National Defense Authorization Act for Fiscal Year 2010 authorized the establishment of the program in 2011. The program's purpose is to leverage the expertise and infrastructure of higher education institutions to train DoD personnel in language, culture, and regional area studies. In 2010, NSEP funded the study "Leveraging Language and Cultural Education and U.S. Higher Education" to fulfill a Congressional request.

Findings from the Leveraging report revealed that federal investments in language and culture at higher education institutions produced a group of universities with well-established programs and faculty expertise that are capable of supporting the military's needs for proficiency-based training in critical and less commonly taught languages at various levels of acquisition. Therefore, facilitating the establishment and continued growth of relationships among these institutions, military installations, and DoD entities is an integral part of the LTC program.

Costs:

To manage and run its initiatives, NSEP employs 8.78 full-time equivalents (FTE), ranging in salary from Federal General Schedule (GS) grade 6 through GS grade 15 (three employees devote partial time to NSEP initiatives, which equates to 0.78 FTE). Using the 2014 GS pay scale for the Washington, DC metro area, NSEP's 8.78 FTEs equate to approximately \$795,154 in DoD expenditure annually. To calculate this figure, NSEP used GS step one wage rates for all employees.

NSEA legislates \$14,000,000 for Boren Scholarships, Boren Fellowships, and The Language Flagship programs annually (sec. 1910-1911) and \$2,000,000 for the EHLS program annually (sec. 1912). In addition, the Intelligence Authorization Act for Fiscal Year 2010, Section 314 (Pub. L. 111-259) directed the establishment of an African language program, a hybrid of Boren and Flagship, at \$2,000,000. In addition to these amounts, NSEP receives \$10,000,000 annually from DoD appropriations in support of Flagship program efforts.

Retrospective Review

This final rule will be reported in future status updates of DoD's retrospective review in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review."

DoD's full plan can be accessed at: <http://www.regulations.gov#!/docketDetail;D=DOD-2011-OS-0036>.

Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866.

Sec. 202, Pub. L. 104-4, “Unfunded Mandates Reform Act”

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This document will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)

The Department of Defense certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 208 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These requirements have been approved by OMB and assigned OMB Control Number 0704-0368, National Security Education Program (Service Agreement Report for Scholarship and Fellowship Awards).

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 208

Education, Languages, Service agreement.

Accordingly 32 CFR part 208 is added to read as follows:

PART 208—NATIONAL SECURITY EDUCATION PROGRAM (NSEP) AND NSEP SERVICE AGREEMENT

Sec.

208.1 Purpose.

208.2 Applicability.

208.3 Definitions.

208.4 Policy.

208.5 Responsibilities.

208.6 Procedures.

Authority: 50 U.S.C. 1901-1912, 50 U.S.C. 1903, 50 U.S.C. chapter 37.

§ 208.1 Purpose.

This part:

(a) Implements the responsibilities of the Secretary of Defense for administering NSEP.

(b) Updates DoD policy, assigns responsibilities, and prescribes procedures and requirements for administering and executing the NSEP service agreement in accordance with 50 U.S.C. chapter 37.

(c) Modifies requirements related to the NSEP service agreement.

(d) Assigns oversight of NSEP to the Defense Language and National Security Education Office.

§ 208.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD (referred to collectively in this part as the “DoD Components”).

(b) The administrative agent, and all recipients of awards by NSEP.

§ 208.3 Definitions.

These terms and their definitions are for the purpose of this part.

Administrative agent. Organization that will administer, direct, and manage resources for NSEP.

Boren Fellowship. A competitive award granted for graduate study under NSEP.

Boren Scholarship. A competitive award granted for undergraduate study abroad under NSEP.

Critical area. Determined by the Secretary of Defense, in consultation with the members of the National Security Education Board, in accordance with 50 U.S.C. chapter 37 and 50 U.S.C. 1903.

Critical foreign language. Determined by the Secretary of Defense, in consultation with the members of the National Security Education Board in accordance with 50 U.S.C. chapter 37.

Deferral of the NSEP service agreement. Official NSEP documentation signed by the Director, NSEP, or his or her designee, by which an NSEP award recipient pursuing approved, qualified further education is allowed to postpone meeting the service deadline.

(1) A deferral reschedules the date by which an NSEP award recipient must begin to fulfill service.

(2) Qualified further education includes, but is not limited to, no less than half-time enrollment in any degree-granting, accredited institution of higher education worldwide or participation in an academic fellowship program (e.g., Fulbright Fellowship, Thomas R. Pickering Foreign Affairs Fellowship).

(3) A deferral is calculated by first calculating the length of enrollment in the degree program from start date to anticipated graduation date, and then adding the length of enrollment in the degree program to the service deadline.

(4) Approvals of deferrals will be considered on a case-by-case basis.

Extension of the NSEP service agreement. Official NSEP documentation signed by the ASD(R), through the DASD(FE&T), by which an NSEP award recipient who has completed award requirements, reached the service deadline, and is actively seeking to fulfill the NSEP service agreement in a well-documented manner is allowed to extend the service deadline. An extension reschedules the date by which an NSEP award recipient must complete the service required in the NSEP service agreement.

Intelligence Community. The U.S. Intelligence Community is a coalition of 17 agencies and organizations within the executive branch that work both independently and collaboratively to gather the intelligence necessary to conduct foreign relations and national security activities.

Language proficiency. The U.S. Government relies on the Interagency Language Roundtable (ILR) scale to determine language proficiency. According to the ILR scale:

- (1) 0 is No Proficiency.
- (2) 0+ is Memorized Proficiency.
- (3) 1 is Elementary Proficiency.
- (4) 1+ is Elementary Proficiency, Plus.
- (5) 2 is Limited Working Proficiency.
- (6) 2+ is Limited Working Proficiency, Plus.
- (7) 3 is General Professional Proficiency.
- (8) 3+ is General Professional Proficiency, Plus.
- (9) 4 is Advanced Professional Proficiency.
- (10) 4+ is Advanced Professional Proficiency, Plus.
- (11) 5 is Functional Native Proficiency.

NSEP Service Approval Committee. Committee of key NSEP staff members who review the merits of all requests for service credit, deferrals, extensions, or waivers of the NSEP service agreement, including adjudication of all cases involving award recipients who decline job offers, in order to provide recommendations to the Director, NSEP.

Other federal agencies. Includes any federal government agency, department, bureau, office or any other federal government organization of any nature other than the Department of Defense or

any component, agency, department, field activity or any other subcomponent of any kind within or subordinate to the Department of Defense.

Program end date. Official end of an NSEP award recipient's program, as set forth within the individual's NSEP service agreement.

Request of service credit in fulfillment of the NSEP service agreement. Written request made through submission of a DD Form 2753 to the NSEP office, documenting how employment an NSEP award recipient held or holds complies with fulfillment of the NSEP service agreement.

Reserve Officer Training Corps (ROTC). College program offered at colleges and universities across the United States that prepares young adults to become officers in the U.S. Military. In exchange for a paid college education and a guaranteed post-college career, cadets commit to serve in the Military after graduation. Each Service branch has its own take on ROTC.

Satisfactory academic progress. Maintenance of academic standards at both home and host institution(s) for every NSEP award recipient for the duration of the study program.

Service deadline. Date by which NSEP award recipient must begin to fulfill the NSEP service agreement.

Waiver of the NSEP service agreement. Official NSEP documentation, signed by the ASD(R), through the DASD(FE&T), by which an NSEP award recipient is relieved of responsibilities associated with the NSEP service agreement.

Work in fulfillment of the NSEP service agreement. Upon completion of the NSEP award recipient's study program, such individual must seek employment in the DoD, Department of Homeland Security (DHS), Department of State (DOS), or the Intelligence Community, or if no suitable position is available, anywhere in the U.S. Government in a position with national security responsibilities. If such individual is unsuccessful in finding a federal position after

making a good faith effort to do so, award recipient agrees to seek employment in the field of education in a position related to the study supported by such scholarship or fellowship. The award recipient further agrees to fulfill the service requirement, as described in this rule.

§ 208.4 Policy.

It is DoD policy that:

(a) NSEP assist in making available to DoD and other federal entities, as applicable, personnel possessing proficiency in languages and foreign regional expertise critical to national security by providing scholarships and fellowships pursuant to 50 U.S.C. 1902(a). These scholarships and fellowships will be awarded to:

(1) Students who are U.S. citizens, to pursue qualifying undergraduate and graduate study in domestic and foreign education systems to assist in meeting national security needs for professionals with in-depth knowledge of world languages and cultures, and who enter into an NSEP service agreement as required by 50 U.S.C. 1902(b); or

(2) Students who are U.S. citizens who are native speakers of a foreign language identified as critical to the national security of the United States, but who are not proficient at a professional level in the English language with respect to reading, writing, and other skills, to enable such students to pursue English language studies at institutions of higher education. Recipients must agree to enter into an NSEP service agreement as required by 50 U.S.C. 1902(b).

(b) Grants will be awarded to institutions of higher education for programs in critical areas pursuant to 50 U.S.C. 1902(a) and 1902(f) to implement a national system of programs to produce advanced language expertise critical to the national security of the United States.

(c) An NSEP award recipient must enter into an NSEP service agreement before receipt of an award as required by 50 U.S.C. chapter 37. The award recipient must agree to maintain

satisfactory academic progress and work in fulfillment of the NSEP service agreement until all service requirements are satisfied.

(d) All NSEP award recipients who are government employees or members of the uniformed services at the time of award must confirm that they have resigned from such employment or service before receiving support for their NSEP-funded overseas study. These stipulations apply to all individuals, including employees of a department, agency, or entity of the U.S.

Government and members of the uniformed services, including members of a Reserve Component of the uniformed services. ROTC participants who are also members of a Reserve Component must be in an inactive, non-drilling status during the course of their NSEP-funded overseas study.

(e) Neither DoD nor the U.S. Government is obligated to provide, or offer work or employment to, award recipients as a result of participation in the program. All federal agencies are encouraged to assist in placing NSEP award recipients upon successful completion of the program.

§ 208.5 Responsibilities.

(a) Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the ASD(R):

(1) Develops programs, processes, and policies to support NSEP award recipients in fulfilling their NSEP service agreement through internships or employment in federal service pursuant to 50 U.S.C. chapter 37.

(2) Determines, pursuant to 50 U.S.C. 1902(a), after consultation with the National Security Education Board, which countries, languages, and disciplines are critical and in which there are deficiencies of knowledgeable personnel within federal entities.

(b) Under the authority, direction, and control of the USD(P&R) through the ASD(R), and in coordination with the Director, Department of Defense Human Resources Activity (DoDHRA), the DASD(FE&T), or his or her designee:

(1) Makes available competitive scholarship, fellowship, and English for Heritage Language Speakers (EHLS) awards to U.S. citizens who wish to engage in study for the purposes of national security in accordance with 50 U.S.C. chapter 37.

(2) Manages, oversees, and monitors compliance of NSEP service agreements on behalf of the Secretary of Defense.

(3) Advises NSEP award recipients who are seeking federal or national security positions on how to fulfill their NSEP service agreement in national security positions.

(4) Maintains documentation of successful completion of federal service or initiates debt collection procedures for those NSEP recipients who fail to comply with the NSEP service agreement.

(5) Works with agencies or offices in the U.S. Government to identify potential employment opportunities for NSEP award recipients and make employment opportunities and information readily available to all award recipients.

(6) Approves or disapproves all DD Form 2573 written requests for service credit, deferrals, extensions, or waivers of the NSEP service agreement, including adjudication of all cases involving award recipients who decline job offers.

(c) Under the authority, direction, and control of the USD(P&R), and in coordination with the DASD(FE&T), the Director, DoDHRA:

(1) Provides administrative and operational support to NSEP.

(2) Provides fiscal management and oversight to ensure all funds provided for NSEP are separately and visibly accounted for in the DoD budget.

§ 208.6 Procedures.

(a) NSEP award recipients. The award recipient of any scholarship or fellowship award through NSEP will:

(1) Maintain satisfactory academic progress in the course of study for which assistance is provided, according to the regularly prescribed standards and practices of the institution in which the award recipient is matriculating.

(2) As a condition of receiving an award, sign an NSEP service agreement as required by 50 U.S.C. chapter 37, which among other requirements, must acknowledge an understanding and agreement by the award recipient that failure to maintain satisfactory academic progress constitutes grounds upon which the award may be terminated and trigger the mandatory requirement to return to the U.S. Treasury the scholarship, fellowship, or EHLS funds provided to the award recipient.

(3) Notify the DASD(FE&T) within ten business days if advised of failure to maintain academic progress by the institution of matriculation.

(4) Notify the DASD(FE&T) in a timely manner and in advance of the service deadline should any request for deferral, extension, or waiver become necessary.

(i) Deferrals. NSEP award recipients actively seeking to fulfill the NSEP service agreement in a well-documented manner may request approval of a one-year extension of their service deadline. Approvals of deferrals for pursuit of education will be considered on a case-by-case basis. Renewal of a deferral may be granted if adequately justified.

(ii) Extensions. A thorough outline describing all further plans to complete the NSEP service agreement must accompany all extension requests. No more than two extensions may be granted to an NSEP award recipient.

(iii) Waivers. (A) In extraordinary circumstances, an NSEP award recipient may be relieved of responsibilities associated with the NSEP service agreement. As a result of receiving a waiver, the award recipient will no longer receive job search assistance from NSEP; is no longer a beneficiary of the special hiring advantages available to award recipients who have a service requirement; and will not be eligible to receive NSEP letters of certification, or endorsements or recommendations. Upon request, the NSEP office will continue to certify that the award recipient received an NSEP scholarship or fellowship.

(B) The DASD(FE&T), will consider requests for extensions and waivers of the NSEP service agreement only under special circumstances as defined in paragraph (b) of this section. The request must set forth the basis, situation, and causes which support the requested action. The award recipient must submit requests electronically on www.nsepnet.org or to nsep@nsep.gov. Final approval of work in fulfillment of the NSEP service agreement, deferrals, extensions, and waivers rest with, and are at the discretion of, the DASD(FE&T).

(5) Immediately upon successful completion of the award program and either completion of the degree for which the award recipient is matriculated or withdrawal from such degree program, begin the federal job search. Award recipients should concurrently seek positions within DoD, any element of the Intelligence Community, the DHS, or DOS.

(6) Work to satisfy all service requirements in accordance with applicable NSEP service agreements until all NSEP service requirements are satisfied. Work in fulfillment of the NSEP

service agreement must be wholly completed within five years of the award recipient's first date of service unless an approved deferral or extension has been granted.

(7) Work for the total period of time specified in the NSEP service agreement either consecutively in one organization, or through follow-on employment in two or more organizations.

(8) Repay the U.S. Treasury the award funds provided to the award recipient if the requirements of the NSEP service agreement are not met.

(9) Submit DD Form 2753 to NSEP no later than one month after termination of the period of study funded by NSEP and annual reports thereafter until the NSEP service requirement is satisfied. The DD Form 2753 will include:

- (i) Any requests for deferrals, extensions, or waivers with adequate support for such requests.
- (ii) The award recipient's current status (e.g., not yet graduated from, or terminated enrollment in, the degree program pursued while receiving NSEP support; engaged in work in fulfillment of the requirement.)
- (iii) Updated contact information.

(10) Notify the ASD(R), through the DASD(FE&T), within ten business days of any changes to the award recipient's mailing address.

(b) Procedures and requirements applicable to NSEP award recipients—(1) NSEP service agreement. Award recipients of any scholarship, fellowship, or EHLS award through this program must comply with the terms of the NSEP service agreement they signed. NSEP awards entered into before the date of this part will be governed by the laws, regulations, and policies in effect at the time that the award was made. The NSEP service agreement for recipients awarded as of the date of this part will:

(i) In accordance with 50 U.S.C. 1902(b) outlines requirements for NSEP award recipients to fulfill their federal service requirement through work in positions that contribute to the national security of the United States. An emphasis is placed on work within one of four organizations: DoD, any element of the Intelligence Community, DHS, or DOS. On a case-by-case basis, NSEP may consider employment with a federal contractor of one of these four priority organizations as meeting the service requirement should the award recipient provide adequate documentary evidence that the salary for the position is funded by the U.S. Government.

(ii) Stipulate that absent the availability of a suitable position in the four priority organizations or a contractor thereof, award recipients may satisfy the service requirement by serving in any federal agency or office in a position with national security responsibilities. It will also stipulate that absent the availability of a suitable position in DoD, any element of the Intelligence Community, DHS, DOS, a contractor thereof, or any federal agency with national security responsibilities, award recipients may satisfy the service requirement by working in the field of education in a discipline related to the study supported by the program if the recipient satisfactorily demonstrates to the Secretary of Defense through the Director, NSEP, that no position is available in the departments, agencies, and offices covered by paragraph (b)(1)(i) of this section.

(2) Implementation. The NSEP service agreement will be implemented as follows:

(i) Prior to receiving assistance, the award recipient must sign an NSEP service agreement. The award recipient will submit to the NSEP Administrative Agent, in advance of program of study start date, any proposed changes to the approved award program (i.e., course and schedule changes, withdrawals, course or program incompletions, unanticipated or increased costs).

- (ii) The minimum length of service requirement for undergraduate scholarship, graduate fellowship, and EHLS award recipients is one year. The duration of the service requirement for graduate fellowship award recipients is equal to the duration of assistance provided by NSEP.
- (iii) In accordance with 50 U.S.C. 1902(b), undergraduate scholarship students must begin fulfilling the NSEP service agreement within three years of completion or termination of their undergraduate degree program.
- (iv) In accordance with 50 U.S.C. 1902(b), graduate fellowship students must begin fulfilling the NSEP service agreement within two years of completion or termination of their graduate degree program.
- (v) In accordance with 50 U.S.C. 1902(b), EHLS award recipients must begin fulfilling the service requirement within three years of completion of their program.
- (vi) The award recipient must accept a reasonable offer of employment, as defined by the Director, NSEP, or his or her designee, in accordance with the NSEP service agreement, at a salary deemed by the hiring organization as commensurate with the award recipient's education level, and consistent with the terms and conditions of the NSEP service agreement.
- (vii) The award recipient will annually submit a DD Form 2753 to NSEP until all NSEP service agreement requirements are satisfied. The DD Form 2753 must be received and reviewed by the NSEP Service Approval Committee. The receipt of a completed DD Form 2753 will be acknowledged through official correspondence from NSEP. Award recipients who do not submit the DD Form 2753 as required will be notified by NSEP of the intent to pursue collection action.
- (viii) If the award recipient fails to maintain satisfactory academic progress for any term in which assistance is provided, probationary measures of the host institution will apply to the

award recipient. Failure to meet the institution's requirements to resume satisfactory academic progress within the prescribed guidelines of the institution will result in the termination of assistance to the award recipient.

(ix) Extenuating circumstances, such as illness of the award recipient or a close relative, death of a close relative, or an interruption of study caused by the host institution, may be considered acceptable reasons for non-satisfactory academic progress. The award recipient must notify the NSEP Administrative Agent of any extenuating circumstances within 10 business days of occurrence. The NSEP Administrative Agent will review these requests to determine what course of action is appropriate and make a recommendation to NSEP for final determination. The DASD(FE&T) will upon receipt of the NSEP Administrative Agent recommendation, determine by what conditions to terminate or reinstate the award to the award recipient.

(x) NSEP award recipients may apply to the DASD(FE&T) for a deferral of the NSEP service agreement requirement if pursuing qualified further education.

(xi) NSEP award recipients may apply to the DASD(FE&T), to receive an extension of the NSEP service agreement requirement if actively seeking to fulfill the NSEP service agreement in a well-documented manner.

(xii) In extraordinary circumstances an NSEP award recipient may request a waiver to be relieved of responsibilities associated with the NSEP service agreement. Conditions for requesting a waiver to the NSEP service agreement may include:

(A) Situations in which compliance is either impossible or would involve extreme hardship to the award recipient.

(B) Interruptions in service due to temporary physical or medical disability or other causes beyond the award recipient's control.

- (C) Unreasonable delays in the hiring process not caused by the award recipient, including delays in obtaining a security clearance if required for employment.
 - (D) Hiring freezes that adversely affect award recipients who are seeking positions with the U.S. Government.
 - (E) Permanent physical or medical disability that prevent the award recipient from fulfilling the obligation.
 - (F) Inability to complete the NSEP service agreement due to terminations or interruptions of work beyond the award recipient's control.
 - (G) Death of the award recipient.
- (xiii) In cases where assistance to the award recipient is terminated, the amount owed to the U.S. Government is equal to the support received from NSEP. Repayment to the U.S. Treasury must be made within a period not to exceed six months from expiration of the service deadline. Noncompliance with repayment requirements will result in the initiation of standard U.S. Government collection procedures to obtain payment for overdue indebtedness, unless a waiver is specifically granted by the DASD(FE&T). Further job search assistance to an award recipient will be denied if any outstanding debt remains unpaid as a result of an award termination.
- (A) Repayment to the U.S. Treasury for the amount of assistance provided becomes due, either in whole or in part, if the award recipient fails to fulfill the NSEP service agreement. Award recipients who do not submit the SAR as required will be notified by NSEP of the intent to pursue collection action. Noncompliance with repayment requirements will result in the initiation of standard U.S. Government collection procedures to obtain payment for overdue indebtedness, unless a waiver is specifically granted by the DASD(FE&T).
 - (B) Repayment recovery procedures will include one or a combination of the following:

(1) Voluntary repayment schedule arranged between the award recipient and the administrative agent.

(2) Deduction from accrued pay, compensation, amount of retirement credit, or any other amount due the employee from the U.S. Government.

(3) Such other methods as are provided by law for recovery of amounts owed to the U.S. Government.

Dated: November 29, 2016

Morgan Park,
Alternate OSD Federal Register
Liaison Officer,
Department of Defense.

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