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DEPARTMENT OF EDUCATION

34 CFR Part 263

RIN 1810-AB54

[Docket ID ED-2019-OESE-0068]

Indian Education Discretionary Grant Programs; Professional Development Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to revise the regulations that govern the Professional Development program, authorized under title VI of the Elementary and Secondary Education Act of 1965, as amended (ESEA), to implement changes to title VI resulting from the enactment of the Every Student Succeeds Act (ESSA). These proposed regulations would update, clarify, and improve the current regulations. These regulations pertain to Catalog of Federal Domestic Assistance (CFDA) number 84.299B.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery,

or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

- Postal Mail, Commercial Delivery, or Hand Delivery: The Department strongly encourages commenters to submit their comments electronically. However, if you mail or deliver your comments about these proposed regulations, address them to Angela Hernandez-Marshall, U.S. Department of Education, 400 Maryland Avenue SW, room 3W113, Washington, DC 20202-6110. Telephone: (202) 205-1909.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Angela Hernandez-Marshall, U.S. Department of Education, 400 Maryland Avenue SW, room 3W113, Washington, DC 20202-6110. Telephone: (202) 205-1909. Email: angela.hernandez-marshall@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about these proposed regulations by

accessing Regulations.gov. You may also inspect the comments in person at 400 Maryland Avenue SW, Washington, DC, between 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays. To schedule a time to inspect comments, please contact one of the persons listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background

The Secretary proposes to revise the regulations in 34 CFR part 263 that govern the Professional Development program to clarify certain statutory changes made to section 6122 of the ESEA by the ESSA and to better enable the Department and grantees to meet the objectives of the program. We also propose changes that are technical only and therefore will not be addressed in the preamble. For example, we will replace the term "Indian institution of

higher education” with “Tribal College or University (TCU)” throughout in order to align with the reauthorized statute.

The primary statutory change that we are addressing in this notice of proposed rulemaking (NPRM) is the requirement that, after completing their training as teachers or administrators, program participants must work in local educational agencies (LEAs) that serve a high proportion of Indian students. We propose a definition of “LEA that serves a high proportion of Indian students” to provide clarity to applicants, participants, and prospective employers.

We also propose adding new priorities that would allow work by administrators in Tribal educational agencies (TEAs), or in entities starting a new school to serve Indian students, to serve as qualifying employment. We also propose to revise priorities and definitions to allow projects to support Native American language certification for teachers in States that offer this option. These changes would allow for greater flexibility for grantees to recruit and retain Indian teachers and administrators to serve in settings desired by Tribes while meeting the statutory requirements.

Tribal Consultation

The Department held a blended in-person and virtual Tribal Consultation on November 15, 2018, to solicit input on the future direction of the Professional Development program, and continued to solicit Tribal comment through December 31, 2018, via its tribalconsultation@ed.gov mailbox. The Department also solicited Tribal input by issuing several email messages to Tribal leaders from each of the federally recognized Indian Tribes, all TCU presidents, current grantees under ESEA Title VI formula and discretionary grant programs, and external stakeholders. The topics on which we sought input included how we should define "LEA that serves a high proportion of Indian students"; whether we should establish a priority for training Indian administrators to start new Indian-serving charter schools; and ways to encourage opportunities for administrators to work with, and in, TEAs. Most respondents were in favor of the Department defining the term "LEA that serves a high proportion of Indian students" in order to allow as many LEAs as possible to serve as a qualifying job placement for successful participants, and the Department concurs and proposes to do so in these regulations. The Department had asked for specific input on using Indian student population percentage thresholds to define "high proportion" (e.g.

LEAs with 50 percent Indian student population); Tribal consultation participants were generally opposed to using any specific percentages in the definition. Several participants and subsequent submitted written comments to the Department stated that the options proposed by the Department would result in only schools on reservations qualifying for the program, and would be a disadvantage to urban or off-reservation schools that serve a large number but not a high percentage of Indian students relative to the districtwide student population. Many Tribal consultation participants expressed support for administrator opportunities to work in an entity starting a new charter school or transitioning a school to Tribally controlled, and to work for TEAs under this program.

Significant Proposed Regulations

We group major issues according to subject, with the appropriate sections of the proposed regulations referenced in parentheses. We discuss other substantive issues under the sections of the proposed regulations to which they pertain.

Qualifying job placements that satisfy the service payback obligation

Statute: Section 6122(e)(2) of the ESEA requires applicants to describe how they will use grant funds to

train teachers or principals to work in LEAs that serve a high proportion of Indian students. Similarly, the participant service payback requirement described in section 6122(h) requires work that benefits Indian students in an LEA that serves a high proportion of Indian students. The statute does not define the phrase "LEA that serves a high proportion of Indian students."

Current Regulations: In § 263.5(b)(1)(ii), the priority for pre-service teacher training requires grantees to provide induction services in schools with a "significant" Indian student population. The selection criterion in § 263.6(d)(1) addresses the likelihood that the proposed project will prepare students for successful teaching and/or administration in schools with significant Indian populations.

The selection criteria in § 263.6(a), (c), and (d) ("need for project," "quality of project design," and "quality of project services") do not reference the type of schools that can qualify for service payback. Under § 263.8(b), work in a school with a significant Indian student population satisfies the requirement that work-related payback benefits Indian people. The current regulations do not define the phrase "schools with a significant Indian student population." The current

regulations also make multiple references (§§ 263.4, 263.5 and 263.11) to the terms "qualifying job[s]" and "qualifying employment" but do not define these terms.

Proposed Regulations: We propose to establish a definition of "LEA that serves a high proportion of Indian students" in § 263.3 as an LEA with either (1) a high proportion of Indian students in the LEA as compared to other LEAs in the State; or (2) a high proportion of Indian students in the school in which the participant works, even if the LEA as a whole does not have a high proportion of Indian students. The definition would make clear that "LEA" includes a BIE-funded school for this purpose.

We propose to establish a definition of "qualifying employment" as employment in an LEA that serves a high proportion of Indian students. We also propose revising the definition of "induction services" to require that such services be provided in an LEA that serves a high proportion of Indian students; and revising the priorities in renumbered §263.6(b)(1) and (2) to specify that induction services are to be provided to participants completing work-related payback in an LEA that serves a high proportion of Indian students.

We propose adding an application requirement in new 263.5 stating that applicants must submit one or more

letters of support from LEAs that serve a high proportion of Indian students.

In the selection criterion renumbered 263.7(a), "Need for project," we propose adding a selection factor that would ask applicants to describe the extent to which employment opportunities exist in LEAs that serve a high proportion of Indian students in the project service area. We also incorporate the new defined term "LEAs that serve a high proportion of Indian students" in the selection factor for "quality of project design" in renumbered 263.7(c)(3).

Finally, in renumbered §263.12(c)(1) we propose adding an element to the required payback agreement that participants must sign, clarifying that in order to qualify for the work payback requirement, the job must be in an LEA "that serves a high proportion of Indian students."

Reasons: First, we propose to define "LEA that serves a high proportion of Indian students" broadly in order to maximize the number of LEAs that would qualify under this definition. This proposed definition, informed by Tribal Consultation feedback, would allow us to consider whether an LEA's student body population has a high proportion relative to the Indian population in the grantee's State, as opposed to a nationwide comparison using a strict percentage. It would also permit a comparison of whether

the school in which the participant works has a high percentage of Indian students compared to other LEAs in the State. This approach would mitigate the potential for perceived "competition" between urban and rural areas, address the need for serving Indian students in States where few to no schools have high percentages of Indian student populations, and would still adhere to the intent of this requirement.

In addition, we propose to add a definition of "qualifying employment" because the current regulations use different terms, such as "qualifying employment" and "qualifying jobs," but do not define either. Defining this term with reference to the new statutory requirement of working in an LEA with a high proportion of Indian students would provide clarity for grantees, participants, and employers regarding which jobs will qualify for the work payback requirement. For example, under 263.12(d) (as proposed to be renumbered in this NPRM), grantees continue to have an obligation to assist participants in obtaining qualifying employment (consistent with the definition); but the definition would remove any ambiguity as to which job placements meet the definition of "LEA that serves a high proportion of Indian students."

The proposed revision to the definition of "induction

services,” which would require that such services be provided in an LEA that serves a high proportion of Indian students, would align that definition to the statutory requirement that applicants describe how they will support the preparation and professional development of teachers or principals in LEAs that serve a high proportion of Indian students. We propose revising the priorities in renumbered §263.6(b)(1) and (2) to replace the current language concerning induction services for participants “in schools with significant Indian populations” with the new statutory “high proportion” language.

We propose adding the application requirement in § 263.5 for letters of support from LEAs that serve a high proportion of Indian students to help ensure that participants have actual opportunities for jobs following their training, at schools that will qualify for the work payback obligation. The letters of support would need to include evidence, such as a school, district and State report card that includes demographic information, that the LEA meets the definition of “LEA that serves a high proportion of Indian students.” We invite comment on what type of evidence the Department should accept, and what type of evidence is available to LEAs.

The proposed new element in the payback agreement (in

proposed §263.12(c)) would clarify in writing for participants that to satisfy the work payback requirement, they must work in an "LEA that serves a high proportion of Indian students." This will increase the potential for participants to successfully meet the service payback requirement.

Native American Language certificate

Statute: The ESEA, both prior to and after the ESSA amendments, does not specify whether an applicant IHE for this program must be a degree-granting institution. Although section 6122 of the ESEA does not define the phrase "institution of higher education," section 8101 of the ESEA, which is also applicable to this program, contains a definition of "institution of higher education." The statute does not define the term "full-time student."

Current Regulations: Under §263.2(c), eligibility of an applicant requiring a consortium with any IHE, including a TCU, requires that the IHE be accredited to provide the coursework and level of degree required by the project. In §263.3, the current definition of "full-time student" requires that a student be a candidate for a baccalaureate or graduate degree. The definition of "institution of higher education" requires that the institution be accredited to award a baccalaureate degree or higher.

"Pre-service training" is defined as training that results in licensing or certification in a field requiring at least a baccalaureate degree. In the priority for pre-service teacher training in §263.5(b)(1), the training must be in a subject area that requires a degree.

Proposed Regulations: The proposed regulations in §263.2(c), regarding eligibility of an applicant requiring a consortium with any IHE, would be broadened to include IHEs that are accredited to provide the coursework and level of degree or Native American language certificate required by the project.

In the definition of "full-time student" in §263.3, the proposed regulations would add the option that students who are candidates for a Native American language certificate can also qualify as "full-time students," for an applicant proposing a program that awards a certificate of Native American language instruction rather than a baccalaureate degree. For the definition of "institution of higher education," the proposed regulations would use the statutory definition from ESEA section 8101. For consistency with that definition, the list of eligible entities in §263.2(a)(1) would be revised to use the word "or" between the phrase "institution of higher education" and the phrase "TCU," rather than the existing word

"including." Conforming changes would be made to add "or TCU" following the phrase "institution of higher education" in paragraphs (a)(2) through (a)(4) of §263.2, and in the definition of "Indian organization" in §263.3.

The proposed regulations would add to the definition of "pre-service training" the option that the training could be either in a field that requires at least a baccalaureate degree, or certification in Native American language instruction.

The proposed regulations would also revise the priority for pre-service teacher training in §263.6(b)(1)(i), as renumbered, to add the option of training in the field of Native American language instruction. Finally, the proposed regulations would add definitions of the terms "Native American" and "Native American language."

Reasons: The Department has learned, both from current grantees and through Tribal consultation, that there is interest in providing training for teachers of Native American languages, and that there is a shortage of qualified teachers in this field. We understand that a number of States now have a certificate or license for teaching Native American languages, and that such certificates generally do not require a bachelor's degree.

This enables non-traditional students such as Tribal elders to obtain the needed qualifications to teach Native American languages in the public schools. These proposed changes to the regulations would provide more flexibility to grantees, better recognize Tribal sovereignty, and help fulfill the Department's obligation under the Native American Languages Act (NALA) to support efforts to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.

The proposed regulations contain several changes to facilitate this flexibility in the Professional Development program. First, the proposed regulations would change the definition of "IHE" to the general definition in title VIII of the ESEA, which in turn uses the definition in section 101(a) of the Higher Education Act of 1965 (HEA). This proposed definition would eliminate the prior requirement in the regulatory definition for this program that the institution must award a baccalaureate degree or higher. The proposed definition would enable an IHE that meets the HEA definition but does not award a baccalaureate degree, such as a community college that has a Native American language certificate or licensing program, to be eligible for this program. For consistency with that definition,

the list of eligible entities in section 263.2(a) would be revised to use the word "or" between the phrase "IHE" and the phrase "TCU," because a TCU is generally not included under the ESEA definition of IHE, which requires State authorization of the entity. We understand that TCUs are generally authorized by the Tribe and not the State.

Next, the proposed regulations would revise the definitions of "full-time student" and "pre-service training" to add the option of a Native American language certificate that does not require a baccalaureate degree. The proposed definition of "Native American language" is taken from section 8101 of the ESEA, which references section 103 of NALA (25 U.S.C. 2902). We have used the language from NALA in the definition for user convenience. The proposed definition of "Native American" is also from section 8101 of the ESEA, which references section 103 of NALA (25 U.S.C. 2902), which defines "Native American" as an "Indian, Native Hawaiian, or Native American Pacific Islander." The NALA definition of "Indian" further references the ESEA title VI definition of that term (ESEA section 6151). We propose a definition that is a user-friendly compilation of these three discrete sources; the proposed definition is also the same definition used in the ESEA Title I regulations in 34 CFR 200.6(k).

Finally, the priority for pre-service teacher training in section 263.6(b)(1)(i), as renumbered, would add the option of training in the field of Native American language instruction.

Application Requirements

Section 263.5 What are the application requirements?

Statute: Under section 6122 of the ESEA, the Secretary requires applicants to describe how they will recruit qualified Indian individuals, such as students who may not be of traditional college age, to become teachers, principals, or school leaders; use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or principals in LEAs that serve a high proportion of Indian students; and assist participants in meeting the payback obligation requirement.

Current Regulations: The current regulations do not include a specific section that describes application requirements. However, under the current section 263.5 there is a priority for applicants that include a letter of support from an LEA or BIE-funded school that agrees to consider program graduates for qualifying employment.

Proposed Regulations: We plan to include this list of statutory requirements under a new section 263.5. In

addition, we propose that the current priority for applicants that include a letter of support now be made an application requirement.

Reasons: First, adding a new section that describes the application requirements provides applicants with one place to reference multiple requirements. Second, we are proposing adding to the statutorily-mandated requirements a requirement that applicants include a letter of support from prospective LEAs, including BIE-funded schools, that meet the qualifying employment definition, in order to increase applicants' understanding, at the outset, of their statutory obligation to support participants' placement in qualifying employment, should they receive a grant. One reason we are proposing this change is that, when we included a competitive preference priority for letters of support in each of the last two grant competition cycles in Fiscal Years (FYs) 2016 and 2018, the competitive preference priority points did not help to discern which applications were of the highest quality. Second, in the past, applicants have provided letters from LEAs that may no longer be considered locations for qualifying employment under the new definition of "LEAs that serve a high proportion of Indian students." Requiring, rather than providing an incentive for, applicants to provide letters

of support from LEAs that serve a high proportion of Indian students would help to ensure that participants will find qualifying employment.

Number of Years of Induction Services

Statute: Section 6122(d) of the ESEA permits grant funds to be used for teacher induction services during the first three years of teachers' employment.

Current Regulations: The definition of "induction services" in current section 263.3 includes only services provided during the first year of teaching. The priorities for pre-service teacher training and pre-service administrator training in current 263.5(b)(1)(ii) and (b)(2)(ii) also require one year of induction services.

Proposed Regulations: The proposed definition of "induction services" would include services provided during a teacher's first one to three years of qualifying employment; the Department would announce the number of years of required induction services in the applicable notice inviting applications. The allowable costs provision in proposed §263.4(c)(4) would include the new statutory language concerning induction services but would indicate that induction services can be provided for up to the first three years of a teacher's employment.

Similarly, the priorities for pre-service teacher training

and pre-service administrator training in 263.6(b)(1)(ii) and (b)(2)(ii), as renumbered, would include language stating that induction services are to be provided for the period of time stated in the applicable notice inviting applications.

Reasons: The proposed change would provide flexibility in tailoring the length of induction services to the total grant period. Prior to the ESSA amendments, the Department had awarded four-year grants, and grantees were required to provide induction services to graduated and employed participants during the fourth year of the grant. In the latest competition, for FY 2018, the Department awarded five-year grants because the statute now authorizes grants for an initial period of up to three years, with possible renewal for up to two years for grantees that are achieving the objectives of the grant. In the FY 2018 competition, the Department required three years of training and two years of induction services, assuming the grantee makes substantial progress towards the objectives. A longer period of induction services should provide more support to new teachers and lead to fewer participants leaving the teaching profession.

Priority for administrator training for work in TEAs

Statute: The Secretary has the authority to establish

regulatory priorities for the Indian Education Professional Development Program under 20 U.S.C. 1221e-3 and 3474.

Current Regulations: The current regulations in section 263.5 contain one priority required by statute, and three regulatory priorities. There is no priority for administrator training for work in TEAs. Section 263.3 does not include a definition of TEA. Current §263.8(b) provides the requirements for work-related payback but does not address TEAs.

Proposed Regulations: The proposed regulations in section 263.6(b), as renumbered, would include a priority for training administrators to work for TEAs. Under this priority, grantees would be required to provide opportunities for participants to work with or for TEAs during the training period, and to make efforts to place participants in administrator jobs in TEAs following program completion.

The proposed regulations would also add a definition of TEA to the definitions in §263.3. In addition, the proposed regulations would include a note following §263.9(b), as renumbered, regarding work-related payback, stating that for grants that provide administrator training, if a graduate works for a TEA that provides administrative control or direction of public schools

(e.g., BIE-funded schools or charter schools), such employment would satisfy the requirements for work payback. Reasons: We understand from Tribal consultation that many Tribes have established or are seeking greater control over education. In some cases, TEAs are in control of BIE-funded schools or Tribally funded schools. Under the current regulations, it has been unclear to grantees whether graduates are permitted to work in a TEA to satisfy the work payback obligation, or whether they must obtain employment in a State-funded LEA. The proposed change would provide clarity on this issue, increase flexibility for applicants interested in administrator training, and better recognize Tribal sovereignty.

The proposed definition of TEA in §263.3 is taken from the definition in ESEA section 6132. The proposed note following §263.9(b), as renumbered, would clarify that graduates who work for a TEA would satisfy the work payback obligation, if the TEA has administrative control or direction of schools. This clarification is needed due to the statutory requirement that work payback take place in an LEA; the note would explain that the work payback requirement is satisfied if the graduate is employed by a TEA that satisfies the requirements in the statutory definition of LEA in ESEA section 8101.

Priority for administrator training for school start-ups

Statute: The Secretary has the authority to establish regulatory priorities for the Indian Education Professional Development Program under 20 U.S.C. 1221e-3 and 3474.

Current Regulations: The current regulations in section 263.5 contain one priority required by statute, and three regulatory priorities. There is no priority for administrator training for school start-ups.

Proposed Regulations: The proposed regulations in section 263.6(b), as renumbered, would include a priority for training administrators to start new schools that serve Indian students, such as charter schools or schools transitioning from BIE-operated to Tribally controlled. Grantees would be required to make efforts to place participants in administrator jobs working for an entity planning to start a school to serve Indian students or transitioning an existing school to one under Tribal control.

Reasons: We heard through Tribal consultation that Tribes are interested in opportunities to train administrators in ways to expand choice in Indian country, including specifically how to establish new charter schools, or how to change a BIE-funded school that is currently BIE-operated to one that is Tribally operated. A priority for

such training would enable the Department to provide a competitive advantage to projects that include this focus. Because of the statutory requirement for work payback, a project doing such training would need to ensure that its graduates obtain jobs in which they would be administering schools, as opposed to merely planning for future administration. Thus, if the graduate worked for an entity such as a TEA that is planning to open a new school, that person would also need to be in a position that involves current school administration duties. The proposed change would provide more flexibility to applicants interested in administrator training and would better recognize Tribal sovereignty.

Section 263.7 How does the Secretary evaluate applications for the Professional Development program?

Statute: The Secretary has the authority to establish regulatory selection criteria for the Indian Education Professional Development program under 20 U.S.C. 1221e-3 and 3474.

Current Regulations: Under the current section 263.6 there are five criteria, each with corresponding factors specific to the Professional Development program, including need for the project, significance, quality of the project design, quality of project services, and quality of project

personnel.

Proposed Regulations: The proposed regulations would add under the selection criterion (d), "Quality of Project Design," a selection factor regarding the extent to which the proposed project has a plan for recruiting and selecting participants, including students who may not be of traditional college age, that ensures that program participants are likely to complete the program. The proposed regulations in §263.7(d), as renumbered, would also include a sixth factor to address the extent to which the applicant will assist participants in meeting the service obligation requirements.

Reasons: One of the statutory changes made by ESSA is to add the requirement that applicants describe how they will recruit and select participants. Adding this as a selection criterion will help ensure that projects include participants who are likely to complete the program. Another statutory change requires applicants to describe how they will assist participants in meeting the work payback obligation. By including this as a selection factor, we can encourage applicants to increase their focus on placement in qualifying employment. Our review of current and past projects shows that participants' ability to meet the service obligation can be better supported when

grantees give more time and attention to planning for how they will support participants' placement in jobs that meet the service obligation requirements.

Other Significant Issues

Bureau-funded school

Statute: Section 6122 of the ESEA includes Bureau-funded schools, as defined in section 1146 of the Educational Amendments of 1978, among eligible entities of the Professional Development program.

Current Regulations: Section 263.3 defines Bureau-funded school as a Bureau of Indian Education school, a contract or grant school, or a school that receives support under the Tribally Controlled Schools Act of 1988. Section 263.2 also uses the term in the list of eligible entities. However, the priority described in §263.5(b)(3) makes reference to a BIE-funded school.

Proposed Regulation: The proposed regulations would change the term from Bureau-funded school to BIE-funded school throughout the regulations and would change the term to BIE-funded school in the definitions in §263.3, but the content of the definition would remain unchanged.

Reasons: Using the term BIE-funded school throughout the regulations would ensure consistency. And although the statute refers to Bureau-funded school, the term "BIE-

funded school” is a term more commonly used and more familiar to grantees, participants and other stakeholders.

Quality of Project Personnel–Project consultants

Statute: The Secretary has the authority to establish regulatory selection criteria for the Indian Education Professional Development program under 20 U.S.C. 1221e-3 and 3474.

Current Regulations: Section 263.6(e)(3) is a selection factor that considers the qualifications of subcontractors and consultants who may be included in the proposed project.

Proposed Regulations: The proposed regulations would eliminate this selection factor.

Reasons: Most applicants do not identify subcontractors and consultants who are not already in the role of project director or key personnel. Consequently, any applicant whose proposed project does not include subcontractors or consultants cannot receive peer review points because they lack this non-required element. Eliminating this evaluation factor would eliminate this negative impact on such projects.

Payback Agreement Submission

Statute: The Secretary has the authority to regulate post-award requirements that apply to the Professional

Development program under 20 U.S.C. 1221e-3 and 3474.

Current Regulations: Current §263.11(c)(1) requires that grantees obtain a signed payback agreement from each participant and submit it to the Department within seven days of signing.

Proposed Regulations: The proposed regulations would extend the timeframe for grantees to submit the signed payback agreement to the Department to 30 days.

Reasons: Based on current grantee feedback, participant orientation and related administrative processes generally take more than seven days due to grantees holding related activities. Addressing all related administrative duties for a part-time staff has proven challenging. Based on Department analysis of submission times over the last four years, 30 days is more reasonable and is adequate for the time period needed for grantees to adhere to this requirement.

Technical Changes

The ESSA amendments to Title VII of the ESEA also necessitate multiple technical changes to the current program regulations. As a result, this NPRM includes the following technical changes:

(1) In §263.1, we add language regarding the purposes of the program as stated in ESEA section 6122(a)(2).

(2) In §§263.2(a), 263.3, and 263.6, we reflect changes to the eligible entities listed in ESEA section 6122(b)(1). We remove references to "Indian institution of higher education" and replace them with "TCU" throughout. In section 263.2(a) we also add the statutory language requiring BIE-funded schools to apply in consortium with at least one TCU, where feasible.

(3) We revise the definition of induction services in §263.3, and we add to section 263.4 new paragraphs (c)(4) and (c)(5), to reflect authorized activities described in ESEA section 6122(d)(1)(B).

(4) We add new §263.5 to reflect application requirements described in ESEA section 6122(e). We also revise the selection criteria in redesignated §263.7 to add the element regarding recruiting participants, from ESEA section 6122(e)(1), to redesignated §263.7(c)(2) and (d)(5), and we add the element regarding helping participants with payback, from ESEA section 6122(e)(3), to redesignated §263.7(d)(6).

(5) We revise §§263.1-263.3, and redesignated §§263.6, 263.7, 263.9, 263.11, and 263.12 to reflect the service obligation described in ESEA section 6122(h)(1)(A)(ii), which requires that work must benefit Indian students in an LEA that serves a high proportion of

Indian students.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For Fiscal Year 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. The proposed regulations are not a significant regulatory action. Therefore, the requirements of Executive Order 13771 do not apply.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as

possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these proposed regulations only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed regulations are consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

Discussion of Costs and Benefits: The potential costs associated with the proposed regulatory changes would be minimal, while there would be greater potential benefits.

For Professional Development grants, applicants may anticipate minimal additional costs in developing their applications due to the new required letter of support that the applicant must obtain from an LEA in proposed section 263.5, estimated at two hours of additional work. We anticipate no additional time spent reporting participant payback information in the Professional Development Program Data Collection System (PDPDCS) and the costs of carrying out these activities would continue to be paid for with program funds.

The benefits include enhancing project design and quality of services to better meet the objectives of the programs with the result being more participants successfully completing their programs of study and obtaining employment as teachers and administrators. Elsewhere in this section under Paperwork Reduction Act of 1995, we identify and explain burdens specifically associated with information collection requirements.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency

to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 263.3 What definitions apply to the Professional Development program?)
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department

could make these proposed regulations easier to understand, see the instructions in the ADDRESSES section.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a substantial economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that would be affected by these proposed regulations are LEAs, institutions of higher education, TCUs, tribes, and tribally operated schools receiving Federal funds under this program. The proposed regulations would not have a significant economic impact on the small entities affected because the regulations do not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements to ensure the proper expenditure of

program funds, including reporting of participant payback information. We note that grantees that would be subject to the minimal requirements that these proposed regulations would impose would be able to meet the costs of compliance using Federal funds provided through the Indian Education Discretionary Grant programs.

However, the Secretary specifically invites comments on the effects of the proposed regulations on small entities, and on whether there may be further opportunities to reduce any potential adverse impact or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of Indian Education Discretionary Grant programs. Commenters are requested to describe the nature of any effect and provide empirical data and other factual support for their views to the extent possible.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department's collection

instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Proposed §§263.5, 263.6, and 263.7, as renumbered, contain information collection requirements for the program application package, and proposed §§263.12 and 263.13 contain information collection requirements renewed by OMB on August 12, 2019. Table A-1 illustrates the status of both the current and proposed collections associated with this program:

TABLE A-1: PD Program Information Collection Status

OMB Control Number	Relevant Regulations	Expiration	Current Burden (Total Hours)	Proposed Burden (Total Hours)	Proposed Action Under Final Rules
1810-0580	Proposed §§ 263.5, 263.6, and 263.7	June 30, 2021	Applicants: 1,500	0	Discontinue this collection and use 1894-0006
1894-0006	Proposed §§263.5, 263.6, and 263.7	January 31, 2021	0	Applicants: 1,500	Use this collection.
1810-0698	Proposed §§ 263.12	August 31, 2022	Grantees: 2,040 Participants: 660 Employers: 304	Grantees: 2,040 Participants: 660 Employers: 304	Use this collection.

As a result of the proposed revisions to §§263.5, 263.6, and 263.7, we would transfer the grant application package information collection burden from 1810-0580 to 1894-0006, resulting in discontinuation of 1810-0580.

Proposed §263.12 contains information collection requirements that will continue in order to:

- Fulfill six Government Performance and Results Act (GPRA) performance measures and reporting requirements;
- Ensure that participants fulfill the statutory payback requirements; and
- Collect budget and project-specific performance information from grantees for project monitoring.

This information collection was recently renewed by OMB. We expect that the proposed amendments will slightly change, but not increase, the current OMB approved data collection burden. Because the changes impact only information collection requirements for post-award induction activities that would not occur prior to FY 2022, and in order to mitigate revisions due to any possible changes to the proposed regulations, we plan to submit the revised information collection for OMB approval once final regulations are published.

If your comments relate to the ICR for these proposed

regulations, please specify the Docket ID number and indicate "Information Collection Comments" on the top of your comments.

Written requests for information or comments submitted by postal mail or delivery related to the information collection requirements should be addressed to the Director of the Information Collection Clearance Program, U.S. Department of Education, 550 12th Street, SW, room 9086, Washington, DC 20202.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between

the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. These proposed regulations may have federalism implications. We encourage State and local elected officials to review and provide comments on these proposed regulations.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e-4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published

in the *Federal Register*, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. (Catalog of Federal Domestic Assistance Number: 84.299B Professional Development Program.)

List of Subjects

34 CFR part 263

Business and industry, College and universities, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education, Reporting and recordkeeping requirements, Scholarships and fellowships.

Dated: October 4, 2019.

Frank Brogan,
*Assistant Secretary for
Elementary and Secondary
Education.*

For the reasons discussed in the preamble, the Secretary of Education proposes to amend part 263 of title 34 of the Code of the Federal Regulations as follows:

PART 263--INDIAN EDUCATION DISCRETIONARY GRANT PROGRAMS

1. The authority citation continues to read as follows:

20 U.S.C. 7441, unless otherwise noted.

2. Section 263.1 is amended by:

- a. Revising paragraphs (a) (2) and (a) (3);
- b. Adding paragraph (a) (4); and
- c. Revising paragraph (b) (1).

The revisions and addition read as follows:

§ 263.1 What is the Professional Development program?

(a) * * *

(2) Provide pre- and in-service training and support to qualified Indian individuals to become effective teachers, principals, other school leaders, administrators, teacher aides, paraprofessionals, counselors, social workers, and specialized instructional support personnel;

(3) Improve the skills of qualified Indian individuals who serve in the education field; and

(4) Develop and implement initiatives to promote retention of effective teachers, principals, and school leaders who have a record of success in helping low-

achieving Indian students improve their academic achievement, outcomes, and preparation for postsecondary education or employment.

(b) * * *

(1) Perform work related to the training received under the program and that benefits Indian students in a local educational agency that serves a high proportion of Indian students, or to repay all or a prorated part of the assistance received under the program; and

* * * * *

3. Section 263.2 is amended by:

a. Revising paragraph (a) (1);

b. Adding the words "or a TCU" after the phrase "institution of higher education" in paragraphs (a) (2), (3), and (4);

c. Revising paragraph (a) (5);

d. Removing the phrase "Bureau-funded" and adding in its place the phrase "BIE-funded" in paragraph (b);

e. Revising paragraph (b) (2); and

f. Revising paragraph (c).

The revisions read as follows:

§ 263.2 Who is eligible to apply under the Professional Development program?

(a) * * *

(1) An institution of higher education, or a Tribal College or University (TCU);

* * * * *

(5) A Bureau of Indian Education (BIE)-funded school in consortium with at least one TCU, where feasible.

(b) * * *

(2) A pre-service training program when the BIE-funded school applies in consortium with an institution of higher education that meets the requirements in paragraph (c) of this section.

(c) Eligibility of an applicant that is an institution of higher education or a TCU, or an applicant requiring a consortium with any institution of higher education or TCU, requires that the institution of higher education or TCU be accredited to provide the coursework and level of degree or Native American language certificate required by the project.

4. Section 263.3 is amended by:

a. Removing the words "Bureau-funded" in the definition of "Bureau-funded school" and adding, in their place, the words "BIE-funded";

b. Revising the definition of "Full-time student";

c. Removing the definition of "Indian institution of higher education";

d. In paragraph (5) of the definition of "Indian organization", adding the phrase "or TCU" after the phrase "any institution of higher education";

e. Revising the definitions of "Induction services" and "Institution of higher education";

f. Adding in alphabetical order the definitions of "Local educational agency (LEA) that serves a high proportion of Indian students", "Native American", and "Native American language";

g. Adding, in the definition of "Pre-service training" the words ", or licensing or certification in the field of Native American language instruction" after the word "degree"; and

h. Adding in alphabetical order the definitions of "qualifying employment", "Tribal College or University (TCU)", and "Tribal education agency".

The additions and revisions read as follows:

§ 263.3 What definitions apply to the Professional Development program?

* * * * *

Full-time student means a student who--

(1) Is a candidate for a baccalaureate degree, graduate degree, or Native American language certificate, as appropriate for the project;

(2) Carries a full course load; and

(3) Is not employed for more than 20 hours a week.

* * * * *

Induction services means services provided--

(1) (i) By educators, local traditional leaders, or cultural experts;

(ii) For the one, two, or three years of qualifying employment, as designated by the Department in the notice inviting applications; and

(iii) In local educational agencies (LEAs) that serve a high proportion of Indian students;

(2) To support and improve participants' professional performance and promote their retention in the field of education and teaching, and that include, at a minimum, these activities:

(i) High-quality mentoring, coaching, and consultation services for the participant to improve performance;

(ii) Access to research materials and information on teaching and learning;

(iii) Assisting new teachers with use of technology in the classroom and use of data, particularly student achievement data, for classroom instruction;

(iv) Clear, timely, and useful feedback on

performance, provided in coordination with the participant's supervisor; and

(v) Periodic meetings or seminars for participants to enhance collaboration, feedback, and peer networking and support.

* * * * *

Institution of higher education (IHE) has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

Local educational agency (LEA) that serves a high proportion of Indian students means--

(1) A local educational agency, including a BIE-funded school, that serves a high proportion of Indian students in the LEA as compared to other LEAs in the State; or

(2) A local educational agency, including a BIE-funded school, that serves a high proportion of Indian students in the school in which the participant works compared to other LEAs in the State, even if the LEA as a whole in which the participant works does not have a high proportion of Indian students compared to other LEAs in the State.

Native American means "Indian" as defined in section 6151(3) of the Elementary and Secondary Education Act,

which includes Alaska Native and members of Federally-recognized or State-recognized Tribes; Native Hawaiian; and Native American Pacific Islander.

Native American language means the historical, traditional languages spoken by Native Americans.

* * * * *

Qualifying employment means employment in a local educational agency that serves a high proportion of Indian students.

* * * * *

Tribal college or university (TCU) has the meaning given that term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

Tribal educational agency (TEA) means the agency, department, or instrumentality of an Indian Tribe that is primarily responsible for supporting Tribal students' elementary and secondary education.

* * * * *

5. Section 263.4 is amended by:

a. Removing the word "and" at the end of paragraph (c) (2).

b. Removing the "." at the end of paragraph (c) (3) and adding a ";"; and

c. Adding paragraphs (c) (4) and (c) (5).

The additions read as follows:

§ 263.4 What costs may a Professional Development program include?

* * * * *

(c) * * *

(4) Teacher mentoring programs, professional guidance, and instructional support provided by educators, local traditional leaders, or cultural experts, as appropriate for teachers for up to their first three years of employment as teachers; and

(5) Programs designed to train traditional leaders and cultural experts to assist participants with relevant Native language and cultural mentoring, guidance, and support.

* * * * *

§§ 263.5 through 263.12 [Redesignated]

6. Redesignate §§ 263.5 through 263.12 as §§ 263.6 through 263.13.

7. Add a new §263.5 to read as follows:

§ 263.5 What are the application requirements?

An applicant must--

(a) Describe how it will--

(1) Recruit qualified Indian individuals, such as students who may not be of traditional college age, to

become teachers, principals, or school leaders;

(2) Use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or principals in local educational agencies that serve a high proportion of Indian students; and

(3) Assist participants in meeting the payback requirements under § 263.9(b);

(b) Submit one or more letters of support from LEAs that serve a high proportion of Indian students. Each letter must include--

(1) A statement that the LEA agrees to consider program graduates for employment;

(2) Evidence that the LEA meets the definition of "LEA that serves a high proportion of Indian students"; and

(3) The signature of an authorized representative of the LEA;

(c) If applying as an Indian organization, demonstrate that the entity meets the definition of "Indian organization" in these regulations; and

(d) Comply with any other requirements in the application package.

8. Newly redesignated § 263.6 is amended by:

a. Removing the phrase "Indian institution of higher

education" and adding, in its place, the phrase "TCU" in paragraphs (a) (1) and (a) (2) (i).

b. Removing the word "or" at the end of paragraph (b) (1) (i) (B).

c. Adding the word "or" at the end of paragraph (b) (1) (i) (C).

d. Adding new paragraph (b) (1) (i) (D).

e. Revising paragraph (b) (1) (ii).

f. In paragraph (b) (1) (iii) (D), remove the word "jobs" and add in its place "employment".

g. Revising paragraph (b) (2) (ii).

h. In paragraph (b) (2) (iii) (D), remove the word "jobs" and add in its place "employment".

i. Revising paragraph (b) (3).

j. Adding a new paragraph (b) (4).

The addition and revisions read as follows:

§ 263.6 What priority is given to certain projects and applicants?

* * * *

(b) * * *

(1) * * *

(i) * * *

(D) Training in the field of Native American language instruction;

(ii) Provide induction services, during the award period, to participants after graduation, certification, or licensure, for the period of time designated by the Department in the notice inviting applications, while participants are completing their work-related payback in schools in local educational agencies that serve a high proportion of Indian students; and

(2) * * *

(ii) Provide induction services, during the award period, to participants after graduation, certification, or licensure, for the period of time designated by the Department in the notice inviting applications while administrators are completing their work-related payback as administrators in local educational agencies that serve a high proportion of Indian students; and

* * * * *

(3) Pre-service administrator training for work in Tribal educational agencies. The Secretary establishes a priority for projects that--

(i) Meet the requirements of the pre-service administrator training priority in paragraph (b)(2) of this section;

(ii) Include training on working for a TEA, and opportunities for participants to work with or for TEAs

during the training period; and

(iii) Include efforts by the applicant to place participants in administrator jobs in TEAs following program completion.

(4) Pre-service administrator training for school start-ups. The Secretary establishes a priority for projects that--

(i) Meet the requirements of the pre-service administrator training priority in paragraph (b)(2) of this section;

(ii) Include training to support the capacity of school leaders to start new schools that serve Indian students, such as charter schools or schools transitioning from BIE-operated to Tribally controlled; and

(iii) Include efforts by the applicant to place participants in administrator jobs with entities planning to start or transition a school to serve Indian students.

* * * * *

9. Newly redesignated § 263.7 is amended by:

a. Revising paragraph (a)(2).

b. Removing the word "jobs" in paragraph (c)(1)(iv) and adding in its place "employment".

c. Revising paragraphs (c)(2) and (c)(3).

d. Revising paragraph (d)(1) by removing the phrase

"schools with significant Indian populations" and adding in its place the phrase "LEAs that serve a high proportion of Indian students".

e. Adding to the end of paragraph (d)(3) the phrase "and that offer qualifying employment opportunities".

f. Adding new paragraphs (d)(5) and (d)(6).

g. Removing paragraph (e)(3).

The additions and revisions read as follows:

§ 263.7 How does the Secretary evaluate applications for the Professional Development program?

(a) * * *

(2) The extent to which LEAs with qualifying employment opportunities exist in the project's service area, as demonstrated through a job market analysis, and have provided a letter of support for the project.

* * * * *

(c) * * *

(2) The extent to which the proposed project has a plan for recruiting and selecting participants, including students who may not be of traditional college age, that ensures that program participants are likely to complete the program.

(3) The extent to which the proposed project will incorporate the needs of potential employers, as identified

by a job market analysis, by establishing partnerships and relationships with LEAs that serve a high proportion of Indian students and developing programs that meet their employment needs.

(d) * * *

(5) The extent to which the proposed project has a plan for recruiting and selecting participants, including students who may not be of traditional college age, that ensures that the program participants are likely to complete the program.

(6) The extent to which the applicant will assist participants in meeting the service obligation requirements.

* * * * *

10. Newly redesignated §263.9 is amended by:

a. In paragraph (b) (1), removing the word "people" and adding, in its place, the word "students" and removing the words "school that has a significant Indian population" and adding, in their place, the words "LEA that serves a high proportion of Indian students".

b. Adding a note at the end of this section.

The addition reads as follows:

§ 263.9 What are the payback requirements?

* * * * *

Note to § 263.9: For grants that provide administrator training, a participant who has received administrator training and subsequently works for a Tribal educational agency that provides administrative control or direction of public schools (e.g., BIE-funded schools or charter schools) satisfies the requirements of paragraph (b)(1) of this section.

§ 263.11 [Amended]

11. Newly redesignated § 263.11 is amended by removing the word "people" in paragraph (b)(1) and replacing it with the phrase "students in an LEA that serves a high proportion of Indian students".

12. Newly redesignated § 263.12 is amended by

a. Removing the word "and" at the end of paragraph (c)(1)(ii).

b. Redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(iv) and adding a new paragraph (c)(1)(iii).

c. Removing in paragraph (c)(2) the word "seven" and adding, in its place, the word "thirty".

The addition reads as follows:

§ 263.12 What are the grantee post-award requirements?

* * * * *

(c) * * *

(1) * * *

(iii) A statement explaining that work must be in an
“LEA that serves a high proportion of Indian students,” and
the regulatory definition of that phrase; and

* * * * *

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