NOTICES

15141

All communications regarding this Committee should be addressed to Carl T. DeMarco, Acting Executive Secretary, Pharmaceutical Reimbursement Advisory Committee, Office of Quality Standards, Room 16A09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.


CARL T. DEMARCO,
Acting Executive Secretary,
Pharmaceutical Reimbursement Advisory Committee.

Office of the Secretary

ASSURANCE OF COMPLIANCE WITH TITLE IX OF EDUCATION AMENDMENTS OF 1972

The following document (HEW Form 639-A (3/77)) has been designated by the Director, Office for Civil Rights, Department of Health, Education, and Welfare, as the Assurance of Compliance which must be submitted by all applicants for, and recipients of, Federal financial assistance awarded by the Department and subject to the provisions of Title IX of the Education Amendments of 1972 (2 U.S.C. 1681 et seq.).

The requirement that such applicants and recipients submit this Assurance is set forth in the Department's regulation implementing Title IX, at 45 CFR 854. The form is similar in content and purpose to that used in implementing Title VI of the Civil Rights Act of 1964. (See 45 CFR 80.4.)

This form (HEW Form 639-A (3/77)) is a revision of a previous Assurance form (HEW Form 639 (7/76)) which was mailed to State school officers, superintendents of local education agencies, and presidents of colleges and universities in July 1975 for completion and return by September 30, 1976. Recipients who submitted an acceptable Assurance (HEW Form 639, 7/76) are not required to resubmit this revised version.

HEW Form 639-A (3/77) is essentially the same as the previous version, except that Article III, paragraph 2, of the Title IX Assurance revised in order to clarify the scope of the recipient's obligation to obtain assurances from subgrantees, contractors, or subcontractors, the effect of the revision is to delete the requirement that recipients obtain written assurances from subgrantees, contractors, or subcontractors. Instead, recipients must take reasonable steps to assure themselves that the other entities do not discriminate on the basis of sex.

Additional copies of the Assurance and Explanation may be obtained by writing the Office of Public Affairs, Office for Civil Rights, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201.

ALBERT T. HALL, Jr.
Acting Director,
Office for Civil Rights.

MARCH 16, 1977.

(Federal Register, Vol. 42, No. 53—FRIDAY, MARCH 18, 1977)
its policies and practices or to take any remedial steps to come into compliance with Part 66.

(ii) The Applicant has completed a self-evaluation as required by 45 C.F.R. 86.3(c) and has ceased to carry out any policies and practices which do not or may not meet the requirements of Part 66 and is taking any necessary remedial steps to eliminate the effects of any practices which violate section 901 or otherwise or may have resulted from adherence to such policies and practices.

C. (i) The Applicant has not completed the self-evaluation required by 45 C.F.R. 639 A, (3/77) but expects to have it completed by ________________

D. (i) The Applicant is not required to conduct a self-evaluation under 45 C.F.R. 86.3(c) since it did not receive any Federal financial assistance to which Part 66 applies prior to July 21, 1975.

Date: ________________

(name of applicant)

(this document must be signed by or an officer legally authorized to unconstantly bind the applicant)

(insert title of authorized official)

EXPLANATION OF HEW FORM 639 A (3/77)


Section 901 of Title IX of the Education Amendments of 1972 provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Section 902 of Title IX authorizes and directs the Department of Health, Education, and Welfare (hereinafter the "Department") to effectuate the nondiscrimination requirements of section 901 by issuing rules, regulations, and policies of general applicability. Pursuant to section 902, the Department has issued 45 C.F.R. Part 66 (hereinafter "Part 66") which became effective on July 21, 1975.

Section 86.4 of Part 66 requires that every application for Federal financial assistance for any education program or activity shall, as a condition of its approval, contain or be accompanied by an assurance from the applicant satisfactory to the Director of the Office for Civil Rights (hereinafter the "Director") that each education program or activity operated by the applicant and to which Title IX of the Education Amendments of 1972 and Part 66 apply will be operated in compliance with Part 66.

Section 86.4 also provides that the Director will specify the form of the assurance required and the extent to which a specific assurance will be required of the applicant's subgrantees, contractors, subcontractors, transferees, or successors in interest. Under this authority, Form 66A, (3/77) has been specified as the form of assurance which shall apply to all recipients of and applicants for Federal financial assistance subject to the provisions of Title IX and awarded by the Department.

HEW Form 639 A. (3/77) constitutes a legally enforceable agreement to comply with Title IX and all of the requirements of Part 66 and the accompanying preamble. The obligation imposed by Title IX and Part 66 are independent of, and do not alter, the obligation not to discriminate on the basis of sex imposed by Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); Executive Order 11246, Title 28, 29 U.S.C. 796, and 655 of the Public Health Service Act (42 U.S.C. 255a-9 and 255b-3); and the Equal Pay Act (29 U.S.C. 206 (d)).

PERIOD OF ASSURANCE

Section 86.4 of Part 66 (3/77) is binding on a recipient for a period during which Federal financial assistance is extended to it by the Department. With respect to Federal financial assistance used to aid in the purchase or improvement of real or personal property, such period shall include the time during which the property is to be used for the purpose of providing an education program or activity. A recipient may transfer or otherwise convey title to real and personal property purchased or improved with Federal financial assistance so long as such transfer or conveyance is accompanied by the laws and regulations under which the recipient obtained the property and it has obtained a properly executed HEW Form 639 A, (3/77) from the party to whom the transfer or conveyance is made. The Department share of the fair market value of such property has been refunded or otherwise properly accounted for the Federal government.

A recipient or applicant which has submitted an HEW Form 639 A, (3/77) to the Director need not submit a separate form with each grant application but may, if the information contained therein remains accurate, simply incorporate by reference. HEW Form 639 A, (3/77), giving the date it was submitted. On the other hand, a revised HEW Form 639 A, (3/77) must be submitted within 30 days after information contained in the submitted form becomes inaccurate, even if no additional financial assistance is being sought.

OBLIGATION OF RECIPIENT TO OBTAIN ASSURANCES FROM OTHERS

As indicated in Article III, paragraph 2, of the Assurance, if a recipient subgrants, or contracts, subcontracts, or otherwise arranges with an individual, organization, or group to assist in the conduct of an education program or activity receiving Federal financial assistance from the Department or to provide services in connection with such a program or activity, the recipient continues to have an obligation to ensure that the education program or activity is being administered in a nondiscriminatory manner. (See 45 C.F.R. 86.31.) Accordingly, the recipient must take reasonable steps to ensure that the individual, organization, or group in question is complying with Title IX and Part 66. If, for example, it is determined that the recipient does not or may not necessarily require, obtaining assurances of compliance from such subgrantees, contractors, subcontractors, or other arrangements with that individual or group is necessary to assure itself that any contractor, subgrantee, subcontractor, or other individual or group with whom it arranges for services or benefits to its students and employees does not discriminate on the basis of sex as described in Part 66, the recipient may not initiate or continue contracts, subcontracts, or other arrangements with that individual or group or make payment to it.

ADMINISTRATIVELY SEPARATE UNITS

If an educational institution is composed of more than one administratively separate unit, a separate HEW Form 639 A, (3/77) may be submitted for each separate unit. Each such unit must be clearly identified in the first line of HEW Form 639 A, (3/77). An "administratively separate unit" is defined as a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution. See 45 C.F.R. 639 A, (3/77).

STATE EDUCATION AGENCIES

State education agencies are generally not responsible for running pre-school, kindergarten, elementary, and secondary schools. Such responsibility is generally left to local education agencies although some supervisory authority may be vested with the state education agency. Consequently, most state agencies should not check the boxes for "Pre-school," "Kindergarten," or "Elementary or Secondary" in Article I of HEW Form 639 A, (3/77). If the state agency runs special programs for the handicapped, including those on the pre-school, kindergarten, elementary, or secondary level, the box marked "Other" should be checked and an appropriate description inserted in the space provided. Under Article III, paragraph 5, of HEW Form 639 A, (3/77), a state education agency may be called upon from time to time to submit reports necessary to determine Title IX compliance by local education agencies within its jurisdiction. The form and content of such reports will be specified by the Director at the time the request is made.

RELIGIOUS EXEMPTION

Applicants or recipients which are educational institutions controlled by a religious organization are not covered by Part 66 to the extent that application of Part 66 would be inconsistent with the tenets of the controlling religious organization.

Section 86.12 of Part 66 requires an institution seeking an exemption to submit a written statement to the Director identifying the provisions of Part 66 which conflict with a specific tenet of the controlling religious organization. Such an exemption must be signed by the highest ranking official of the educational institution claiming the exemption. An institution claiming an exemption is not relieved of its obligations to comply with that portion of Part 66 not specified in its statement to the Director as being inconsistent with the tenets of the controlling religious organization.

Although 86.12 imposes no time restriction when a recipient or applicant may claim an exemption, applicants or recipients are urged to make such claims when they initially submit HEW Form 639 A, (3/77) by checking the appropriate box in Article I of HEW Form 639 A, (3/77) and attaching to the statement required by 86.12(b). Such an approach will avoid misunderstandings on the part of both the Department and the recipient as to what, if any, action is required under Part 66.

An applicant or recipient will normally be considered to be "controlled by a religious organization" if one or more of the following conditions prevail:

1. It is a school or department of divinity; or...
Office of Education

BILINGUAL EDUCATION PROGRAM

Extension of Closing Date for Receipt of Applications for Fiscal Year 1977

A. Extended closing date. Notice is hereby given that a closing date, April 15, 1977, deadline for filing applications for awards for State educational agency technical assistance programs under the Bilingual Education Program as authorized by section 201(b)(3) of the Bilingual Education Act (20 U.S.C. 1400b-7(b) (3)), and as published in the Federal Register at 41 FR 54518 on December 15, 1976, is extended to 4:00 p.m., Washington, D.C. time, April 6, 1977. Applicants who have already filed such applications will be permitted (but are not required) to review, revise, and resubmit their applications by the extended deadline.

Applications must be received by the U.S. Office of Education Application Control Center on or before April 6, 1977.

1. Application sent by mail. An application sent by mail must be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Ave., SW., Washington, D.C. 20202; Attention: 13.403H, State Educational Agency Technical Assistance Programs. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 1, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt the Commissioner will reply on the time-stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

c. Hand delivered applications. An application must be delivered to the U.S. Office of Education Application Control Center, Room 5573, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. with its identification number attached. The identification number must be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Other Information. Other information published in the December 15, 1976 Notice is unchanged. (41 FR 54518.)

ENVIRONMENTAL EDUCATION PROGRAM

Closing Date for Receipt of Amendments—Fiscal Year 1977

On December 1, 1976, a notice of closing date for the receipt of applications for the Environmental Education Program (20 U.S.C. 1531-1536; 45 CFR Part 183) was published in the Federal Register (41 FR 52721). The notice established a closing date of February 23, 1977.

1. Applications under the Environmental Education Program are subject to the clearinghouse procedures required by OMB Circular A-95. A number of applications which were received by the February 23, 1977 closing date have failed to provide clearinghouse comments with their applications as required by Circular A-95. The Circular requires that applications must be returned to the applicants to fulfill the requirement. The application control center will notify those applicants by February 19, 1976, Part 1, Paragraph 6(b).1.

2. The regulations for the Environmental Education Program (45 CFR Part 183.31(e)) in accordance with the regulations for the Federal education agency (LEA) applicant to provide a copy of its application (circular 2 of the Environmental Education Program) to the State educational agency (SEA) of the State within which the applicant was located. A number of applications have been submitted to the SEA but not received or acknowledged by the SEA. The application control center will notify the LEA of the status of the application and whether it is still under consideration by the SEA.

3. The purpose of this notice is to provide each applicant under the Environmental Education Program which did not receive a clearinghouse comment from the OMB Circular A-95 an opportunity to do so, and to provide LEAs which have not done so, an opportunity to indicate submission of their applications to appropriate SEAs.

4. (a) 1977. With respect to complying with clearinghouse requirements an applicant must provide the Office of Education with:

(i) Identification numbers ofSEA's assigned; and

(ii) If a number has not been assigned, a statement to the effect that the proposal has been submitted to the clearinghouse, where it has been entered at an SIA, its status of review.

(b) In lieu of either of a copy of the transmittal letter to the clearinghouse, or the clearinghouse comments, if available.

(c) With respect to applications submitted by LEAs to SEAs for review and comment, a SEA must submit to the Office of Education a copy of the dated cover letter used to forward a copy of the LEA's application to the SEA (or comparable Indication of such submission to the SEA). If the SEA has not submitted a copy of its application to the appropriate SEA, it shall do so no later than the day on which it submits its application amendment to the U.S. Office of Education.

(d) Verifying documentation of compliance with the above requirement must be received by the U.S. Office of Education, Application Control Center, 400 Maryland Ave., SW., Washington, D.C. 20202; Attention: 13.502. An amendment sent by mail will be considered to be received on time by the Application Control Center if:

(1) The amendment was sent by registered or certified mail not later than March 21, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The amendment is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education and Welfare, or the U.S. Office of Education.

B. Hand delivered amendments. An amendment to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5573, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered amendments will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Amendments will not be accepted after 4:00 p.m. on the closing date.

C. Cut-off date for receipt of clearinghouse and SEA comments. The cut-off date for receipt of advice and comments...