

NOTE: This is an unofficial compilation of the current Educational Opportunity Centers regulations with changes resulting from the final regulations amending 34 CFR Part 644. It has been prepared by the Office of Federal TRIO Programs solely as a convenience for current EOC directors and entities applying for an EOC grant. The official version of the final regulations amending Part 644 will be published in the Federal Register on October 26, 2010.

Authority: 20 U.S.C. 1070a-11 and 1070a-16, unless otherwise noted.

Source: 59 FR 2658, Jan. 18, 1994, unless otherwise noted.

Subpart A - General

§ 644.1 What is the Educational Opportunity Centers program?

The Educational Opportunity Centers program provides grants for projects designed to provide--

- (a) ~~Information~~ *To provide information* regarding financial and academic assistance available for to individuals who desire to pursue a program of postsecondary education; ~~and~~
- (b) ~~Assistance~~ *To provide assistance* to individuals in applying for admission to institutions that offer programs of postsecondary education, including assistance in preparing necessary applications for use by admissions and financial aid officers.; *and*
- (c) *To improve the financial and economic literacy of participants on topics such as--*
- (1) *Basic personal income, household money management, and financial planning skills; and*
 - (2) *Basic economic decision-making skills.*

(Authority: 20 U.S.C. 1070a-16)

§ 644.2 Who is eligible for a grant?

The following *entities* are eligible for a grant to carry out an Educational Opportunity Centers project:

- (a) An institution of higher education.
- (b) A public or private agency or organization, *including a community-based organization with experience in serving disadvantaged youth.*
- (c) *A secondary school.*
- ~~(e)-(d)~~ A combination of the types of institutions, agencies, and organizations described in paragraphs (a), ~~and~~ (b), *and* (c) of this section.
- ~~(d)~~ *A secondary school, under exceptional circumstances such as if no institution, agency, or organization described in paragraphs (a) and (b) of this section is capable of carrying out an Educational Opportunity Centers project in the target area to be served by the proposed project.*

(Authority: 20 U.S.C. 1070a-11)

§ 644.3 Who is eligible to participate in a project?

(a) An individual is eligible to participate in an Educational Opportunity Centers project if the individual meets all of the following requirements:

- (1)(i) Is a citizen or national of the United States;
- (ii) Is a permanent resident of the United States;

- (iii) Is in the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident;
 - (iv) Is a permanent resident of Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands (Palau); or
 - (v) Is a resident of the Freely Associated States - the Federated States of Micronesia or the Republic of the Marshall Islands.
- (2)(i) Is at least 19 years of age; or
- (ii) Is less than 19 years of age, and the individual cannot be appropriately served by a Talent Search project under 34 CFR part 643, and the individual's participation would not dilute the Educational Opportunity Centers project's services to individuals described in paragraph (a)(2)(i) of this section.
- (3) Expresses a desire to enroll, or is enrolled, in a program of postsecondary education, and requests information or assistance in applying for admission to, or financial aid for, such a program.
- (b) A veteran as defined in § 644.7(b), regardless of age, is eligible to participate in an Educational Opportunity Centers project if he or she satisfies the eligibility requirements in paragraph (a) of this section other than the age requirement in paragraph (a)(2) of this section. (Authority: 20 U.S.C. 1070a-11 and 1070a-16)

§ 644.4 What services may a project provide?

An Educational Opportunity Centers project may provide the following services:

- (a) Public information campaigns designed to inform the community about opportunities for postsecondary education and training.
- (b) Academic advice and assistance in course selection.
- (c) Assistance in completing college admission and financial aid applications.
- (d) Assistance in preparing for college entrance examinations.
- (e) *Education or counseling services designed to improve the financial and economic literacy of participants.*
- (~~e~~f) Guidance on secondary school reentry or entry to a General Educational Development (GED) program or other alternative education program for secondary school dropouts.
- (~~f~~g) ~~Personal~~ *Individualized personal, career, and academic counseling.*
- (~~g~~h) Tutorial services.
- (~~h~~i) Career workshops and counseling.
- (~~i~~j) Mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of these persons.
- (~~j~~) ~~Activities described in paragraphs (a) through (i) of this section that are specifically designed for students of limited English proficiency.~~
- (k) *Programs and activities described in this section that are specially designed for participants who are limited English proficient, participants from groups that are traditionally underrepresented in postsecondary education, participants who are individuals with disabilities, participants who are homeless children and youth, participants who are foster care youth, or other disconnected participants.*
- (~~k~~l) Other activities designed to meet the purposes of the Educational Opportunity Centers program stated in § 644.1.

(Authority: 20 U.S.C. 1070a-16)

§ 644.5 How long is a project period?

~~(a) Except as provided in paragraph (b) of this section, a project period under the Educational Opportunity Centers program is four years.~~

~~(b) The Secretary approves a project period of five years for applications that score in the highest ten percent of all applications approved for new grants under the criteria in § 644.21.~~

A project period under the Educational Opportunity Centers program is five years.

(Authority: 20 U.S.C. 1070a-11)

§ 644.6 What regulations apply?

The following regulations apply to the Educational Opportunity Centers program:

~~(a) The Education Department General Administrative Regulations (EDGAR) as follows:~~

~~(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations);~~

~~(2) 34 CFR part 75 (Direct Grant Programs), except for § 75.511;~~ ~~(3) 34 CFR part 77 (Definitions that Apply to Department Regulations), except for the definition of “secondary school” in § 77.1;~~

~~(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities);~~

~~(5) 34 CFR part 82 (New Restrictions on Lobbying);~~

~~(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants));~~

~~(7) 34 CFR part 86 (Drug-Free Schools and Campuses);~~

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except for §§75.215 through 75.221), 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

(b) The regulations in this part 644.

(Authority: 20 U.S.C. 1070a-11 and 1070a-16)

§ 644.7 What definitions apply?

(a) Definitions in EDGAR. The following terms used in this part are defined in 34 CFR 77.1:

Applicant

Application

Budget

Budget period

EDGAR

Equipment

Facilities

Fiscal year

Grant

Grantee

Private

Project

Project period

Public
Secretary
Supplies

(b) Other definitions. The following definitions also apply to this part:

Different population means a group of individuals that an eligible entity desires to serve through an application for a grant under the Educational Opportunity Centers program and that--

(i) Is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or

(ii) While sharing some of the same needs as another population that the eligible entity has applied for a grant to serve, has distinct needs for specialized services.

Financial and economic literacy means knowledge about personal financial decision-making, which may include but is not limited to knowledge about--

(i) Personal and family budget planning;

(ii) Understanding credit building principles to meet long-term and short-term goals (e.g., loan to debt ratio, credit scoring, negative impacts on credit scores);

(iii) Cost planning for postsecondary or postbaccalaureate education (e.g., spending, saving, personal budgeting);

(iv) College cost of attendance (e.g., public vs. private, tuition vs. fees, personal costs);

(v) Financial assistance (e.g., searches, application processes, and differences between private and government loans, assistanceships); and

(vi) Assistance in completing the Free Application for Federal Student Aid (FAFSA).

Foster care youth means youth who are in foster care or are aging out of the foster care system.

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

Homeless children and youth means those persons defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

Individual with a disability means a person who has a disability, as that term is defined in section 12102 of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

Institution of higher education means an educational institution as defined in sections ~~1201(a) and 481 of the HEA~~ 101 and 102 of the HEA.

Low-income individual means an individual whose family's taxable income did not exceed 150 percent of the poverty level amount in the calendar year preceding the year in which the individual initially participated in the project. The poverty level amount is determined by using criteria of poverty established by the Bureau of the Census of the U.S. Department of Commerce.

Participant means an individual who --

(i) Is determined to be eligible to participate in the project under § 644.3; and

(ii) Receives project services.

Postsecondary education means education beyond the secondary school level.

Potential first-generation college student means --

(i) An individual neither of whose parents received a baccalaureate degree; or

(ii) An individual who regularly resided with and received support from only one parent and whose supporting parent did not receive a baccalaureate degree.

Secondary school means a school that provides secondary education as determined under State law, except that it does not include education beyond grade 12.

Target area means a geographic area served by an Educational Opportunity Centers project.

~~Veteran means a person who served on active duty as a member of the Armed Forces of the United States -~~

- ~~(i) For a period of more than 180 days, any part of which occurred after January 31, 1955, and who was discharged or released from active duty under conditions other than dishonorable; or
(ii) After January 31, 1955, and who was discharged or released from active duty because of a service-connected disability.~~

~~*Veteran means a person who--*~~

- ~~(i) Served on active duty as a member of the Armed Forces of the United States for a period of more than 180 days and was discharged or released under conditions other than dishonorable;
(ii) Served on active duty as a member of the Armed Forces of the United States and was discharged or released because of a service connected disability;
(iii) Was a member of a reserve component of the Armed Forces of the United States and was called to active duty for a period of more than 30 days; or
(iv) Was a member of a reserve component of the Armed Forces of the United States who served on active duty in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code) on or after September 11, 2001.~~

(Authority: 20 U.S.C. 1070a-11, 1070a-16, and 1141)

Subpart B - Assurances

Subpart B - How Does One Apply for an Award?

§644.10 How many applications may an eligible applicant submit?

- (a) An applicant may submit more than one application for Educational Opportunity Centers grants as long as each application describes a project that serves a different target area or another designated different population.
- (b) For each grant competition, the Secretary designates, in the Federal Register notice inviting applications and other published application materials for the competition, the different populations for which an eligible entity may submit a separate application.

(Authority: 20 U.S.C. 1070a-11, 1221e-3)

§644.11 What assurances must an applicant submit?

An applicant ~~shall~~ *must* submit, as part of its application, assurances that--

- (a) At least two-thirds of the individuals it serves under its proposed Educational Opportunity Centers project will be low-income individuals who are potential first-generation college students;
- ~~(b) Individuals who are receiving services from another Educational Opportunity Centers project or a Talent Search project under 34 CFR part 643 will not receive services under the proposed project;~~
- (b) The project will collaborate with other Federal TRIO projects, GEAR UP projects, or programs serving similar populations that are serving the same target schools or target area in order to minimize the duplication of services and promote collaborations so that more students can be served.

- (c) The project will be located in a setting or settings accessible to the individuals proposed to be served by the project; and
- (d) If the applicant is an institution of higher education, it will not use the project as a part of its recruitment program.

(Authority : 20 U.S.C. 1070a-16)

Subpart C - How Does the Secretary Make a Grant?

§ 644.20 How does the Secretary decide which new grants to make?

(a) The Secretary evaluates an application for a new grant as follows:

(1)(i) The Secretary evaluates the application on the basis of the selection criteria in § 644.21.

(ii) The maximum score for all the criteria in

§ 644.21 is 100 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(2)(i) For an application for a new grant to continue to serve substantially the same populations ~~or~~ *and* campuses that the applicant is serving under an expiring project, the Secretary evaluates the applicant's prior experience ~~in delivering services of high quality service delivery~~ under the expiring project on the basis of the *outcome* criteria in § 644.22.

(ii) The maximum *total* score for all the criteria in § 644.22 is 15 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(iii) *The Secretary evaluates the PE of an applicant for each of the three project years that the Secretary designates in the Federal Register notice inviting applications and the other published application materials for the competition.*

(iv) *An applicant may earn up to 15 PE points for each of the designated project years for which annual performance report data are available.*

(v) *The final PE score is the average of the scores for the three project years assessed.*

~~(3) The Secretary awards additional points equal to 10 percent of the application's score under paragraphs (a) (1) and (2) of this section to an application for a project in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands (Palau), or the Northern Mariana Islands if the applicant meets the requirements of subparts A, B, and D of this part.~~

(b) The Secretary makes new grants in rank order on the basis of the applications' total scores under ~~paragraphs (a) (1) through (3)~~ *paragraph (a)* of this section.

(c) If the total scores of two or more applications are the same and there are insufficient funds for these applications after the approval of higher-ranked applications, the Secretary uses the remaining funds to serve geographic areas and eligible populations that have been underserved by the Educational Opportunity Centers program.

~~(d) The Secretary may decline to make a grant to an applicant that carried out a project that involved the fraudulent use of funds under section 402A(c)(2)(B) of the HEA.~~

(d) The Secretary does not make a new grant to an applicant if the applicant's prior project involved the fraudulent use of program funds.

(Authority: 20 U.S.C. 1070a-11, 1070a-16, and 1144a(a))

§ 644.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application for a new grant:

(a) Need for the project (24 points). The Secretary evaluates the need for an Educational Opportunity Centers project in the proposed target area on the basis of the extent to which the application contains clear evidence of --

- (1) A high number or percentage, or both, of low-income families residing in the target area;
- (2) A high number or percentage, or both, of individuals residing in the target area with education completion levels below the baccalaureate level;
- (3) A high need on the part of residents of the target area for further education and training from programs of postsecondary education in order to meet changing employment trends; and
- (4) Other indicators of need for an Educational Opportunity Centers project, including the presence of unaddressed educational or socioeconomic problems of adult residents in the target area.

~~(b) Objectives (8 points). The Secretary evaluates the quality of the applicant's proposed project objectives on the basis of the extent to which they~~

~~(1) Include both process and outcome objectives relating to each of the purposes of the Educational Opportunity Centers program stated in § 644.1;~~

~~(2) Address the needs of the target area;~~

~~(3) Are clearly described, specific, and measurable; and~~

~~(4) Are ambitious but attainable within each budget period and the project period given the project budget and other resources.~~

(b) Objectives (8 points). The Secretary evaluates the quality of the applicant's objectives and proposed targets (percentages) in the following areas on the basis of the extent to which they are both ambitious, as related to the need data provided under paragraph (a) of this section, and attainable, given the project's plan of operation, budget, and other resources:

(1) (2 points) Secondary school diploma or equivalent.

(2) (3 points) Postsecondary enrollment.

(3) (1.5 points) Financial aid applications.

(4) (1.5 points) College admission applications.

(c) Plan of operation (30 points). The Secretary evaluates the quality of the applicant's plan of operation on the basis of the following:

(1) (4 points) The plan to inform the residents, schools, and community organizations in the target area of the goals, objectives, and services of the project and the eligibility requirements for participation in the project;

(2) (4 points) The plan to identify and select eligible participants and ensure their participation without regard to race, color, national origin, gender, or disability;

(3) (2 points) The plan to assess each participant's need for services provided by the project;

(4) (12 points) The plan to provide services that meet participants' needs and achieve the objectives of the project; and

(5) (8 points) The management plan to ensure the proper and efficient administration of the project including, but not limited to, the project's organizational structure, the time committed to the project by the project director and other personnel, and, where appropriate, its coordination with other projects for disadvantaged students.

(d) Applicant and community support (16 points). The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which the applicant has made provision for resources to supplement the grant and enhance the project's services, including --

(1) (8 points) Facilities, equipment, supplies, personnel, and other resources committed by the applicant; and

(2) (8 points) Resources secured through written commitments from schools, community organizations, and others.

(e) Quality of personnel (9 points). (1) The Secretary evaluates the quality of the personnel the applicant plans to use in the project on the basis of the following:

(i) The qualifications required of the project director.

(ii) The qualifications required of each of the other personnel to be used in the project.

(iii) The plan to employ personnel who have succeeded in overcoming the disadvantages or circumstances like those of the population of the target area.

(2) In evaluating the qualifications of a person, the Secretary considers his or her experience and training in fields related to the objectives of the project.

(f) Budget (5 points). The Secretary evaluates the extent to which the project budget is reasonable, cost-effective, and adequate to support the project.

(g) Evaluation plan (8 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation --

(1) Are appropriate to the project's objectives;

(2) Provide for the applicant to determine, using specific and quantifiable measures, the success of the project in --

(i) Making progress toward achieving its objectives (a formative evaluation); and

(ii) Achieving its objectives at the end of the project period (a summative evaluation); and

(3) Provide for the disclosure of unanticipated project outcomes, using quantifiable measures if appropriate.

(Approved by the Office of Management and Budget under control number 1840-0065 1840-NEW3)

(Authority: 20 U.S.C. 1070a-16)

§ 644.22 How does the Secretary evaluate prior experience?

~~(a) In the case of an application described in~~

~~§ 644.20(a)(2)(i), the Secretary reviews information relating to an applicant's performance under its expiring Educational Opportunity Centers project. This information includes performance reports, audit reports, site visit reports, and project evaluation reports.~~

~~(b) The Secretary evaluates the applicant's prior experience in delivering services on the basis of the following criteria:~~

~~(1) (3 points) (i) Whether the applicant provided services to the required number of participants who resided in the target area; and~~

~~(ii) Whether two-thirds of all participants served were low income individuals and potential first-generation college students.~~

~~(2) (6 points) The extent to which the applicant met or exceeded its objectives regarding the provision of assistance to individuals in applying for admission to, or financial aid for, programs of postsecondary education.~~

~~(3) (6 points) The extent to which the applicant met or exceeded its objectives regarding the admission or reentry of participants to programs of postsecondary education.~~

~~(Approved by the Office of Management and Budget under control number 1840-0065)~~

~~(Authority: 20 U.S.C. 1070a-16)~~

(a) In the case of an application described in §644.20(a)(2)(i), the Secretary--

(1) Evaluates the applicant's performance under its expiring Educational Opportunity Centers project;

(2) Uses the approved project objectives for the applicant's expiring Educational Opportunity Centers grant and the information the applicant submitted in its annual performance reports (APRs) to determine the number of PE points; and

(3) May adjust a calculated PE score or decide not to award PE points if other information such as audit reports, site visit reports, and project evaluation reports indicates the APR data used to calculate PE points are incorrect.

(b) The Secretary does not award PE points for a given year to an applicant that does not serve at least 90 percent of the approved number of participants. For purposes of this section, the approved number of participants is the total number of participants the project would serve as agreed upon by the grantee and the Secretary.

(c) The Secretary does not award PE points for the criterion specified in paragraph (d)(1) of this section (Number of participants) if the applicant did not serve at least the approved number of participants.

(d) For purposes of the PE evaluation of grants awarded after January 1, 2009, the Secretary evaluates the applicant's PE on the basis of the following outcome criteria:

(1) (3 points) Number of participants. Whether the applicant provided services to no less than the approved number of participants.

(2) (3 points) Secondary school diploma. Whether the applicant met or exceeded its approved objective with regard to participants served during the project year who do not have a secondary school diploma or its equivalent who receive a secondary school diploma or its equivalent within the time period specified in the approved objective.

(3) (5 points) Postsecondary enrollment. Whether the applicant met or exceeded its approved objective with regard to the secondary school graduates served during the project year who enroll in programs of postsecondary education within the time period specified in the approved objective.

(4) (2 points) Financial aid applications. Whether the applicant met or exceeded its objective regarding participants applying for financial aid.

(5) (2 points) College admission applications. Whether the applicant met or exceeded its objective regarding participants applying for college admission.

(Approved by the Office of Management and Budget under control number 1840-NEW8)

(Authority: 20 U.S.C. 1070a-16)

§ 644.23 How does the Secretary set the amount of a grant?

- (a) The Secretary sets the amount of a grant on the basis of --
- (1) 34 CFR 75.232 and 75.233, for new grants; and
 - (2) 34 CFR 75.253, for the second and subsequent years of a project period.
- (b) If the circumstances described in section 402A(b)(3) of the HEA exist, the Secretary uses the available funds to set the amount of the grant ~~beginning in fiscal year 1994~~ at the lesser of --
- (1) ~~\$180,000~~ \$200,000; or
 - (2) The amount requested by the applicant.

(Authority: 20 U.S.C. 1070a-11)

§ 644.24 What is the review process for unsuccessful applicants?

- (a) Technical or administrative error for applications not reviewed. (1) An applicant whose grant application was not evaluated during the competition may request that the Secretary review the application if--
- (i) The applicant has met all of the application submission requirements included in the Federal Register notice inviting applications and the other published application materials for the competition; and
 - (ii) The applicant provides evidence demonstrating that the Department or an agent of the Department made a technical or administrative error in the processing of the submitted application.
- (2) A technical or administrative error in the processing of an application includes--
- (i) A problem with the system for the electronic submission of applications that was not addressed in accordance with the procedures included in the Federal Register notice inviting applications for the competition;
 - (ii) An error in determining an applicant's eligibility for funding consideration, which may include, but is not limited to--
- (A) An incorrect conclusion that the application was submitted by an ineligible applicant;
 - (B) An incorrect conclusion that the application exceeded the published page limit;
 - (C) An incorrect conclusion that the applicant requested funding greater than the published maximum award; or
 - (D) An incorrect conclusion that the application was missing critical sections of the application; and
- (iii) Any other mishandling of the application that resulted in an otherwise eligible application not being reviewed during the competition.
- (3)(i) If the Secretary determines that the Department or the Department's agent made a technical or administrative error, the Secretary has the application evaluated and scored.
- (ii) If the total score assigned the application would have resulted in funding of the application during the competition and the program has funds available, the Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c) of this section.
- (b) Administrative or scoring error for applications that were reviewed.
- (1) An applicant that was not selected for funding during a competition may request that the Secretary conduct a second review of the application if--

- (i) The applicant provides evidence demonstrating that the Department, an agent of the Department, or a peer reviewer made an administrative or scoring error in the review of its application; and
- (ii) The final score assigned to the application is within the funding band described in paragraph (d) of this section.
- (2) An administrative error relates to either the PE points or the scores assigned to the application by the peer reviewers.
- (i) For PE points, an administrative error includes mathematical errors made by the Department or the Department's agent in the calculation of the PE points or a failure to correctly add the earned PE points to the peer reviewer score.
- (ii) For the peer review score, an administrative error is applying the wrong peer reviewer scores to an application.
- (3)(i) A scoring error relates only to the peer review process and includes errors caused by a reviewer who, in assigning points--
- (A) Uses criteria not required by the applicable law or program regulations, the Federal Register notice inviting applications, the other published application materials for the competition, or guidance provided to the peer reviewers by the Secretary; or
- (B) Does not consider relevant information included in the appropriate section of the application.
- (ii) The term "scoring error" does not include--
- (A) A peer reviewer's appropriate use of his or her professional judgment in evaluating and scoring an application;
- (B) Any situation in which the applicant did not include information needed to evaluate its response to a specific selection criterion in the appropriate section of the application as stipulated in the Federal Register notice inviting applications or the other published application materials for the competition; or
- (C) Any error by the applicant.
- (c) Procedures for the second review. (1) To ensure the timely awarding of grants under the competition, the Secretary sets aside a percentage of the funds allotted for the competition to be awarded after the second review is completed.
- (2) After the competition, the Secretary makes new awards in rank order as described in §644.20 based on the available funds for the competition minus the funds set aside for the second review.
- (3) After the Secretary issues a notification of grant award to successful applicants, the Secretary notifies each unsuccessful applicant in writing as to the status of its application and the funding band for the second review and provides copies of the peer reviewers' evaluations of the applicant's application and the applicant's PE score, if applicable.
- (4) An applicant that was not selected for funding following the competition as described in paragraph (c)(2) of this section and whose application received a score within the funding band as described in paragraph (d) of this section, may request a second review if the applicant demonstrates that the Department, the Department's agent, or a peer reviewer made an administrative or scoring error as provided in paragraph (b) of this section.
- (5) An applicant whose application was not funded after the first review as described in paragraph (c)(2) of this section and whose application received a score within the funding band as described in paragraph (d) of this section has at least 15 calendar days after receiving

notification that its application was not funded in which to submit a written request for a second review in accordance with the instructions and due date provided in the Secretary's written notification.

(6) An applicant's written request for a second review must be received by the Department or submitted electronically to the designated e-mail or Web address by the due date and time established by the Secretary.

(7) If the Secretary determines that the Department or the Department's agent made an administrative error that relates to the PE points awarded, as described in paragraph (b)(2)(i) of this section, the Secretary adjusts the applicant's PE score to reflect the correct number of PE points. If the adjusted score assigned to the application would have resulted in funding of the application during the competition and the program has funds available, the Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c)(9) of this section.

(8) If the Secretary determines that the Department, the Department's agent or the peer reviewer made an administrative error that relates to the peer reviewers' score(s), as described in paragraph (b)(2)(ii) of this section, the Secretary adjusts the applicant's peer reviewers' score(s) to correct the error. If the adjusted score assigned to the application would have resulted in funding of the application during the competition and the program has funds available, the Secretary funds the application prior to the re-ranking of applications based on the second peer review of applications described in paragraph (c)(9) of this section.

(9) If the Secretary determines that a peer reviewer made a scoring error, as described in paragraph (b)(3) of this section, the Secretary convenes a second panel of peer reviewers in accordance with the requirements in section 402A(c)(8)(C)(iv)(III) of the HEA.

(10) The average of the peer reviewers' scores from the second peer review are used in the second ranking of applications. The average score obtained from the second peer review panel is the final peer reviewer score for the application and will be used even if the second review results in a lower score for the application than that obtained in the initial review.

(11) For applications in the funding band, the Secretary funds these applications in rank order based on adjusted scores and the available funds that have been set aside for the second review of applications.

(d) Process for establishing a funding band. (1) For each competition, the Secretary establishes a funding band for the second review of applications.

(2) The Secretary establishes the funding band for each competition based on the amount of funds the Secretary has set aside for the second review of applications.

(3) The funding band is composed of those applications--

(i) With a rank-order score before the second review that is below the lowest score of applications funded after the first review; and

(ii) That would be funded if the Secretary had 150 percent of the funds that were set aside for the second review of applications for the competition.

(e) Final decision. (1) The Secretary's determination of whether the applicant has met the requirements for a second review and the Secretary's decision on re-scoring of an application are final and not subject to further appeal or challenge.

(2) An application that scored below the established funding band for the competition is not eligible for a second review.

(Approved by the Office of Management and Budget under control number 1840-NEW3)
(Authority: 20 U.S.C. 1070a-11)

Subpart D - What Conditions Must Be Met by a Grantee?

§ 644.30 What are allowable costs?

The cost principles that apply to the Educational Opportunity Centers program are in ~~34 CFR part 74, subpart Q~~ *34 CFR 74.27, 75.530, and 80.22, as applicable*. Allowable costs include the following if they are reasonably related to the objectives of the project:

(a) Transportation, meals, and, with specific prior approval of the Secretary, lodging for participants and *project* staff for --

(1) Visits to postsecondary educational institutions ~~to obtain information relating to the admission of participants to those institutions;~~

(2) Participation in "College Day" activities; and

~~(3) Field trips to observe and meet with people who are employed in various career fields in the target area and who can serve as role models for participants.~~

(3) Field trips for participants to observe and meet with persons who are employed in various career fields and can act as role models for participants.

(b) Purchase of testing materials *and test preparation programs for participants.*

~~(c) Fees required for college admissions of entrance examinations if --~~

(c) Fees required for admission applications for postsecondary education, college entrance examinations, or alternative education examinations if--

(1) A waiver is unavailable; and

(2) The fee is paid by the grantee to a third party on behalf of a participant.

(d) In-service training of project staff.

(e) Rental of space if --

(1) Space is not available at the site of the grantee; and

(2) The rented space is not owned by the grantee.

~~(f) Purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping, if the applicant demonstrates to the Secretary's satisfaction that the equipment is required to meet the objectives of the project more economically or efficiently.~~

(f) Purchase, lease, or rental of computer hardware, software, and other equipment, service agreements for such equipment, and supplies for participant development, project administration, or project recordkeeping.

(Authority: 20 U.S.C. 1070a-11 and 1070a-16)

§ 644.31 What are unallowable costs?

Costs that are unallowable under the Educational Opportunity Centers program include, but are not limited to, the following:

(a) Tuition, fees, stipends, and other forms of direct financial support for participants.

(b) Research not directly related to the evaluation or improvement of the project.

(c) Construction, renovation, and remodeling of any facilities.

(Authority: 20 U.S.C. 1070a-11 and 1070a-16)

§ 644.32 What other requirements must a grantee meet?

(a) *Eligibility of participants.* (1) A grantee shall determine the eligibility of each participant in the project at the time that the individual is selected to participate.

(2) A grantee shall determine the status of a low-income individual on the basis of the documentation described in section 402A(e) of the HEA.

~~(b) *Number of participants.* In each budget period, a grantee shall serve a minimum of 1,000 participants who reside in the target area. However, the Secretary may reduce the minimum number of these participants if the amount of the grant for the budget period is less than \$180,000.~~

(b) Number of Participants. For each year of the project period, a grantee must serve at least the number of participants that the Secretary identifies in the Federal Register notice inviting applications for a competition. Through this notice, the Secretary also provides the minimum and maximum grant award amounts for the competition.

(c) Recordkeeping. For each participant, a grantee ~~shall~~ must maintain a record of --

(1) The basis for the grantee's determination that the participant is eligible to participate in the project under § 644.3;

(2) The services that are provided to the participant; ~~and~~

(3) The specific educational benefits received by the participant; *and*

(4) To the extent practicable, any services the participant receives during the project year from another Federal TRIO program or another federally funded program that serves populations similar to those served under the EOC program.

~~(d) Project director. (1) A grantee shall employ a full-time project director unless paragraph (d)(3) of this section applies.~~

~~(2) The grantee shall give the project director sufficient authority to administer the project effectively.~~

~~(3) The Secretary waives the requirement in paragraph (d) (1) of this section if the applicant demonstrates that the requirement will hinder coordination--~~

~~(i) Among the Federal TRIO Programs (sections 402A through 402F of the HEA); or~~

~~(ii) Between the programs funded under sections 402A through 410 of the HEA and similar programs funded through other sources.~~

(d) Project director. (1) A grantee must employ a full-time project director unless--

(i) The director is also administering one or two additional programs for disadvantaged students operated by the sponsoring institution or agency; or

(ii) The Secretary grants a waiver of this requirement.

(2) The grantee must give the project director sufficient authority to administer the project effectively.

(3) The Secretary waives the requirements in paragraph (d)(1) of this section if the applicant demonstrates that that the project director will be able to effectively administer more than three programs and that this arrangement would promote effective coordination between the program and other Federal TRIO programs (sections 402B through 402F of the HEA) and similar programs funded through other sources.

(Approved by the Office of Management and Budget under control number ~~1840-0065~~ 1840-NEW8)