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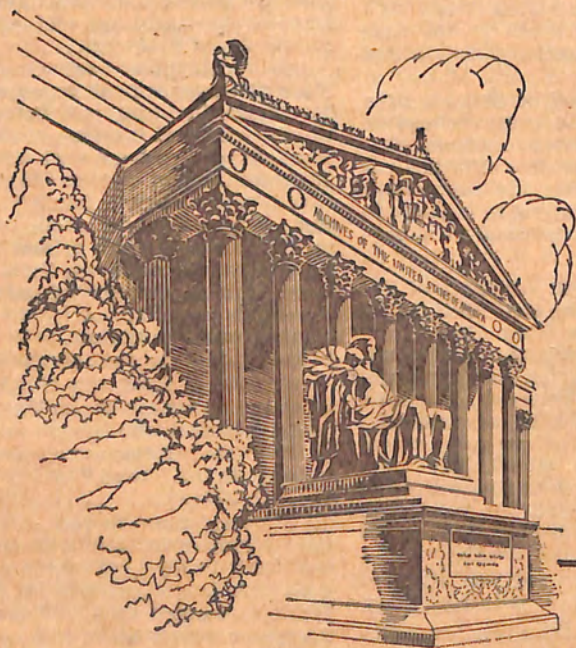
Tuesday, May 13, 1969 • Washington, D.C.

PART II

Department of Health, Education,
and Welfare

Office of Education

COLLEGE WORK-STUDY PROGRAM



Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 175—COLLEGE WORK-STUDY PROGRAM

Chapter I of Title 45 of the Code of Federal Regulations is hereby amended by adding a new part, Part 175.

Federal financial assistance made available pursuant to the regulations set forth below is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (Public Law 88-352).

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AUTHORITY: The provisions of this Part 175 issued under 82 Stat. 1014, 20 U.S.C. 1011, Public Law 89-329, Higher Education Act of 1965, as amended, Title IV, Part C.

§ 175.1 Purpose and objectives.

(a) The purpose of the College Work-Study Program is to stimulate and promote the part-time employment of students, particularly those from low-income families, who are in need of the earnings from such employment in order to pursue courses of study at eligible institutions.

(b) This purpose will be promoted through the development of student employment programs designed to meet the following objectives:

(1) Encourage eligible institutions to expand their efforts to enroll needy students, particularly those from low-income families;

(2) Increase the proportion of eligible high school graduates who continue their education in eligible institutions;

(3) Provide financial aid for eligible students through combining the earnings from part-time employment with other forms of financial assistance to enable students to meet their educational expenses without the necessity of

incurring an unduly heavy burden of indebtedness; and

(4) Broaden the range of worthwhile job opportunities for qualified students in employment for the institution itself or for public or private nonprofit organizations, especially those engaged in health, education, welfare, and related public service activities.

§ 175.2 Definitions.

(a) "Act" means Title IV, Part C of the Higher Education Act of 1965, as amended (Public Law 89-329, 79 Stat. 1219).

(b) "Administrative expenses" means those direct costs incurred by an eligible institution which are necessary for the proper and efficient administration of a Work-Study Program conducted pursuant to an institutional agreement, but only to the extent that the items of cost are attributable to that portion of such program in which students are working for public or private nonprofit organizations other than the institution itself, including such items as salaries of staff, communications, supplies and printing, and travel; but exclusive of overhead, other indirect costs, and equipment.

(c) "Area vocational school" means;

(1) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for full-time study in preparation for entering the labor market, or

(2) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for full-time study in preparation for entering the labor market, or

(3) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for full-time study in preparation for entering the labor market, or

(4) The department or division of a junior college or community college or university which provides vocational education in no less than five different occupational fields, under the supervision of the State board, leading to immediate employment but not leading to a baccalaureate degree,

if it is available to all residents of the State or an area of the State designated and approved by the State Board, and if, in the case of a school, department, or division described in subparagraph (3) or (4) of this paragraph, it admits as regular students both persons who have completed high school and persons who have left high school. The term "State Board" as used in this definition means the State board for vocational education designated or created pursuant to section 5 of the Smith-Hughes Act (that is the Act approved Feb. 23, 1917 (39 Stat. 929, ch. 114; 20 U.S.C. 11-15, 16-28)) to secure to the State the benefits of that Act.

(d) "Commissioner" means the U.S. Commissioner of Education or his designee.

(e) "Cooperative education" means a full-time course of study in an institution, under which all students in the institution, or a major subdivision thereof, may alternate periods of full-time attendance with periods of related full-time employment, upon the completion of which course of study a degree or other certificate is normally awarded.

(f) "Eligible institution" or "institution" means an institution of higher education or an area vocational school (as herein defined), except that no institution of the United States shall be eligible to enter into an institutional agreement with the Commissioner.

(g) "Family" means parents or other individuals (except foster parents) who stand in loco parentis.

(h) "Fiscal year" means the Federal fiscal year commencing on the first day of July and ending on the 30th day of the following June.

(i) "Full-time attendance" means compliance by a full-time student with the policies and regulations regarding attendance in effect at the institution in which he is enrolled.

(j) "Full-time student" means a student who is pursuing any combination of courses, research, or special studies (whether or not for credit) which, according to the standards and practices of the institution in which the student is enrolled, is considered full-time study.

(k) "Good standing" means the eligibility of a student to continue in full-time attendance in accordance with the standards and practices of the institution in which he is enrolled.

(l) "Institution of higher education" means an educational institution in any State which meets the requirements of section 435(b) of the Act. The term "educational institution" limits the scope of this definition to establishments where teaching is conducted and which have an identity of their own.

(m) "Institutional agreement" means the written agreement between an eligible institution and the Commissioner, which provides for the conduct of a Work-Study Program and which meets the conditions of section 444 of the Act.

(n) "Low-income family" means a family whose basic needs exceed its means to satisfy them primarily because its annual income is less than the minimum amount determined, according to standards promulgated by the Commissioner from time to time, to be necessary to maintain a decent standard of living.

(o) "National of the United States" means (1) a citizen of the United States, or (2) a person who though not a citizen of the United States owes permanent allegiance to the United States. (8 U.S.C.A. 1101(a)(22)).

(p) "Part-time employment" means hourly employment of a student under the Work-Study Program in accordance with the limits established in § 175.6. Work performed as a prerequisite to a degree or a certificate will not be considered employment except for not more

than 120 days of work performed during any full-time work period of an organized cooperative education program.

(q) "Period of non-regular enrollment" means a summer vacation period or an equivalent period such as the full-time work period of an organized cooperative education program during which the student is enrolled in one or more classes.

(r) "Period of regular enrollment" means any period of time during which a particular student is normally expected by his institution to be pursuing a course of full-time studies, according to the usual standards and practices of the institution.

(s) "Private nonprofit" (as applied to any school, institution, organization or agency) means a school, institution, organization or agency, no part of whose earnings inures or lawfully may inure directly or indirectly to the benefit of any private member, shareholder, or other individual.

(t) "Public organization" includes a school, agency, organization or institution of the United States.

(u) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

§ 175.3 Allotment of Federal funds to States.

(a) Initial allotments: From sums appropriated to carry out this part for a fiscal year, not to exceed 2 per centum shall be allotted by the Commissioner among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part. In addition to such sum, an amount shall be reserved to provide work-study assistance to students who reside in, but attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students. The remainder of the sums shall be allotted among the remaining States as provided in paragraph (b) of this section. For the purposes of computing this allotment, the Commissioner will use information for the most recent year for which satisfactory data are available to him.

(b) Of the sums being allotted under this paragraph:

(1) One-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States;

(2) One-third shall be allotted by the Commissioner among the States so that

the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States; and

(3) One-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under 18 years of age living in families with annual incomes of less than \$3,000 in such State bears to the number of related children under 18 years of age living in families with annual incomes of less than \$3,000 in all the States.

(c) Reallotment: The amount of any State's allotment which has not been granted to an institution at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner in such a manner as he determines will best assist in achieving the purposes of the Act. Amounts reallotted under this paragraph shall be available for making grants until the close of the fiscal year next succeeding the fiscal year for which appropriated.

§ 175.4 Program eligibility.

(a) General. Work-Study Programs operated under an institutional agreement for the part-time employment of students may involve work for the institution itself or work for a public or private nonprofit organization in any State.

(1) Such programs:

(i) Must not result in the displacement of employed workers or impair existing contracts for services;

(ii) Must not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place of religious worship.

(2) The work provided under such programs (i) must not involve any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election for public or party office, and (ii) must be governed by such conditions of employment, including compensation, as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, proficiency of the employee, and any applicable Federal, State, or local legislation.

(b) Work for the institution itself. To be eligible for Federal financial participation, work for the institution itself (including any nonprofit entity which is under the control of the governing board of the institution) must result in an expansion or broadening of the institution's student employment programs.

(c) Work for a public or private nonprofit organization. To be eligible for Federal financial participation, work for a public or private nonprofit organization other than the institution must (1) be in the public interest (devoted to the general, national or community welfare

rather than that of a particular interest or group), and (2) be evidenced by a written agreement containing the conditions of such work between the institution and the organization. The institution is responsible for ensuring that any arrangements be with a reliable organization with professional direction and staff, and that the work performed by each student will be properly supervised, and consistent with the purposes of the Act.

(d) Work in the public interest. In no event shall work be considered to be in the public interest where (1) it is work for which the political support or affiliation of the student is a prerequisite or consideration for employment, (2) it is work to be performed for an elected official other than as part of the regular administration of Federal, State or local government or (3) it is work which is primarily for the benefit of the members of a limited membership organization (such as a credit union, fraternal order, or a cooperative), rather than the public.

§ 175.5 Eligibility and selection of student participants.

(a) Eligibility. A student is eligible for part-time employment under the Work-Study Program only during periods in which he meets all of the following conditions:

(1) Is a national of the United States, or is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Is in need of the earnings from such employment in order to pursue a course of study at the institution;

(3) Is capable, in the opinion of the institution, of maintaining good standing in such course of study while employed under this program; and

(4) Has been accepted for enrollment as a full-time student at the institution or, in the case of a student already enrolled in and attending the institution, is in good standing and in full-time attendance there, either as an undergraduate, graduate or professional student.

(b) Eligibility of students attending area vocational schools. A student enrolled in an area vocational school is eligible for employment under the College Work-Study Program only if he meets the following conditions in addition to the provisions described in paragraph (a) of this section:

(1) Has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, and

(2) Is pursuing a program of education or training which requires at least 6 months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

(c) Determination of need. In determining whether, and to what extent, a student is in need of the earnings from employment, the institution shall, at least annually, (1) determine what income, assets, and other resources (including other forms of aid) are available to the student for the time period

under consideration; (2) calculate according to standards published from time to time by the Commissioner what portion of the income, assets, and resources of the student's family may reasonably be expected to be made available to the student; and (3) determine the cost reasonably necessary for the student's attendance at the institution, including any special needs and obligations which directly affect the student's financial ability to attend the institution on a full-time basis. A student shall be considered to be in need to the extent that such costs of attendance exceed the sum of the amounts determined to be available to the student and the amounts, if any, which may reasonably be expected to be made available to him by his family.

(d) *Selection of students.* In the selection of students for employment under the Work-Study Program, an institution shall give preference to students from low-income families.

(e) *Availability of student employment.* Each institution shall make employment under the Work-Study Program, or equivalent employment offered or arranged for by the institution, reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof.

(f) *Record of approval or disapproval.* Each institution shall maintain records which reflect the approval or disapproval of all or part of each student's application for employment under the program and which identify the institutional officer who made each such determination.

§ 175.6 Limitations on the number of hours of employment.

(a) During periods of regular enrollment, when classes in which a student is enrolled are in session, he shall be limited to working no more than an average of 15 hours per week under the program, averaged over the semester or other time period on the basis of which the institution in which he is enrolled awards academic credits. Work performed during any week when the student is on vacation shall not exceed 40 hours and shall not be counted as contributing toward the average of 15 hours per week established in the preceding sentence.

(b) During periods of nonregular enrollment, when classes in which a student is enrolled are in session he may be employed under the program for as many as 40 hours per week or such lesser number of hours per week as the institution may determine in accordance with its own standards and practices and considering (1) the extent of the student's financial need and (2) the harm or potential harm of a particular combination of hours of work and hours of study on a given student's health or academic progress.

(c) During periods not covered under paragraphs (a) and (b) of this section, a student may work up to 40 hours per week under the program.

§ 175.7 Use of funds.

(a) Federal funds made available on the basis of an approved application

submitted pursuant to this part may be used only (1) to pay the Federal share of compensation to eligible students employed in eligible Work-Study Programs, and (2) to meet administrative expenses, as defined in § 175.2(b). The amount for such administrative expenses may not exceed 5 percent of that portion of the Federal payments used for compensation of students in work for public or private nonprofit organizations other than the institution itself.

(b) Interest, if any, earned on Federal funds shall be remitted to the Commissioner in accordance with instructions issued by him.

§ 175.8 Limitations on Federal share of student compensation.

(a) The Federal share of the compensation of students employed in any Work-Study Program under an institutional agreement shall not exceed 80 percent of such compensation for part-time employment, except that in unusual cases a Federal share in excess of 80 percent may be approved by the Commissioner, but only and to the extent that he determines, pursuant to such objective criteria as may be established in regulations, that a Federal share in excess of 80 percent is required to achieve the purposes of this part.

(b) The Federal share of compensation for part-time employment shall be calculated on the basis of the hourly rate paid the student for actual time on the job but such calculation shall not include any compensation paid which is in excess of such maximum hourly wage rate as may from time to time be set by the Commissioner, or any costs of the employer's contribution to Social Security, workmen's compensation, retirement, or any other welfare or insurance programs which may be paid by the employer on account of a student employed under the Work-Study Program.

§ 175.9 Minimum wage rate.

The minimum rate of compensation for a student employed under the Work-Study Program shall be

(a) \$1.15 an hour for work performed through January 31, 1969;

(b) \$1.30 an hour for work performed from February 1, 1969, through January 31, 1970;

(c) \$1.45 an hour for work performed from February 1, 1970, through January 31, 1971; and

(d) \$1.60 an hour for work performed thereafter;

(e) Or such higher minimum wage as may be required under any applicable Federal, State, or local legislation; except that the Commissioner may approve a lower rate of compensation in cases (1) where a lower minimum wage for such employees has been established by the Secretary of Labor, under the provisions of the Fair Labor Standards Act, or (2) where exceptional circumstances warrant a lower rate and where the approval of a lower rate is not precluded by law and is consistent with and promotive of the purposes of this part.

§ 175.10 Nature and source of institutional share of student compensation.

(a) An institution may use any source available to it to pay its share of the compensation paid to students employed under the Work-Study Program.

(b) No institution shall solicit or permit any public or private nonprofit organization with which it has an arrangement pursuant to § 175.4(c) to solicit from a student or any other person any fee, commission, or compensation of any kind, or the granting of a gift or gratuity of any kind, as a consideration or a prerequisite for the employment of any particular student under the program.

§ 175.11 Maintenance of level of expenditures.

In each fiscal year during which the institutional agreement remains in effect, the institution shall expend (from sources other than payments of Federal grants under this part) for the employment of its students (whether or not in employment eligible for assistance under this part) an amount that is not less than the institution's average annual expenditures for such employment during the three fiscal years preceding the fiscal year for which the institutional agreement is in effect.

§ 175.12 Coordination of student financial aid programs.

In order to carry out the purpose of the Work-Study Program, the institution shall provide for the coordination of this program with other programs of student financial aid, including the National Defense Student Loan and Educational Opportunity Grants Programs where the institution also participates in such programs. Responsibility for the general conduct of the operation of the Work-Study Program shall be assigned to an institutional official who has other student financial aid responsibility.

§ 175.13 Institutional agreement and application for funds.

(a) Applications for Federal funds under this part shall be approved only if there is in effect an institutional agreement. Such agreement shall be executed by an official of the institution who is legally authorized to commit the institution.

(b) Applications for Federal funds must be submitted to the Commissioner by an authorized official of the institution in such form and at such time as the Commissioner may prescribe.

§ 175.14 Criteria for approval of institutional applications.

In order to achieve equitable distribution of assistance as required by section 446 of the Act, institutional applications for the allocation of funds under this program shall be reviewed and approved, in whole or in part, on the basis of, but not limited to, the following criteria:

(a) Whether the institution employs under the program a large proportion of students from low-income families in relation to the total number of needy students employed under the program;

(b) Whether provision has been made for effective administration of the program, including effective coordination with institutional and other Federal programs of student financial aid;

(c) Whether public and private non-profit organizations, especially those engaged in health, education, welfare, and related public service activities have been included;

(d) Whether the institution has demonstrated a strong commitment to enroll students from low-income families, as evidenced by (1) specialized recruitment and admission, such as that provided through the programs of Talent Search or Upward Bound, (2) remedial instruction, (3) specialized counseling, and (4) any other relevant factors;

(e) The anticipated number of students to be employed under this program as compared to the institution's anticipated enrollment;

(f) The anticipated average compensation of Work-Study students in relation to the institution's average educational costs;

(g) The institution's utilization of Work-Study Program funds, if any, allocated in previous years; and

(h) The institution's total request for Federal student financial aid funds (including Educational Opportunity Grants and National Defense Student Loans) in relation to the average cost of education at the institution and the institution's anticipated enrollment.

§ 175.15 Payment and reallocation of grant funds.

(a) *Payment of funds.* Funds will be made available in advance on the basis of substantiated need and periodic fiscal reports submitted by the institution.

(b) *Reallocation of unused Federal funds.* Any funds which are available to an institution but not used, or which the institution agrees will not be used, by the end of the period for which such funds were made available shall, in the discretion of the Commissioner, either remain

available for use by the institution during a subsequent grant period or be made available for use by other eligible institutions.

(c) *No waiver.* Neither approval of any application nor any payment of funds to an institution shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of failure of the institution to observe, before or after such administrative action, any Federal requirement.

§ 175.16 Fiscal procedures, records, and reports.

(a) *Fiscal procedures.* (1) The institution shall administer the Work-Study Program in such a manner as to provide for an adequate system of internal controls. Wherever practical, the various administrative responsibilities shall be divided so as to prevent the handling of all aspects of the program by a single individual.

(2) If a fiscal agent is utilized by the institution, its function must be limited solely to the performance of ministerial acts. The responsibilities of the institution to make determinations relative to the eligibility of students for employment under the program cannot be delegated.

(3) Payments to students shall be made at least once a month. The institution is responsible for ensuring that students are paid the full amount of wages earned under the program, whether the work is for the institution itself or for a public or private non-profit organization.

(b) *Records.* The institution shall maintain, on a current basis, adequate records which reflect all transactions with respect to the program, and shall establish and maintain such general ledger control accounts and related subsidiary accounts as are prescribed by the Commissioner. Such records shall:

(1) Meet at least the minimum standards prescribed by the Commissioner as set forth in the most recent official Col-

lege Work-Study Manual and other official guidelines that may be issued from time to time;

(2) Be maintained in such a manner as to separately identify all program transactions from other institutional funds and activities; and

(3) Be maintained in such a manner as to be readily auditable. All records pertaining to activity during a given fiscal year, including applications of students for employment under the Work-Study Program during that fiscal year, shall be retained for a period of 5 years following the end of the fiscal year, or until audited by a representative of the Commissioner, whichever is earlier. Records involved in any claim or expenditure questioned by the Commissioner, or on audit, shall be retained until necessary adjustments have been reviewed and approved by the Commissioner.

(c) *Reports.* Institutions shall submit such reports and information as the Commissioner may reasonably require in connection with the administration of the Work-Study Program and shall comply with such procedures as he may find necessary to ensure the correctness and verification of such reports.

§ 175.17 Preceding provisions not exhaustive of jurisdiction of the Commissioner.

No provision of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the Act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

Dated: April 10, 1969.

PETER P. MUIRHEAD,
U.S. Commissioner of Education.

Approved: May 7, 1969.

ROBERT H. FINCH,
Secretary of Health,
Education, and Welfare.

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