

**§ 461.33**

**34 CFR Ch. IV (7-1-01 Edition)**

- (iii) Bilingual education or English-as-a-second-language instruction; and
- (iv) Secondary school credit;
- (2) Vocational training programs;
- (3) Library development and library service programs;
- (4) Corrections education programs, including training for teacher personnel specializing in corrections education, such as courses in social education, basis skills instruction, and abnormal psychology;
- (5) Guidance and counseling programs;
- (6) Supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and
- (7) Cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, that are designed to provide education and training.

(b)(1) An SEA shall establish its own statewide criteria and priorities for administering programs for corrections education and education for other institutionalized adults.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains the information in § 461.31(c) and any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1203a(b)(1) and 1204)

**§ 461.33 What are special experimental demonstration projects and teacher training projects?**

(a) In accordance with paragraph (b) of this section, an SEA shall use at least 15 percent of its grant for—

- (1) Special projects that—
  - (i) Will be carried out in furtherance of the purposes of the Act;
  - (ii) Will be coordinated with other programs funded under the Act; and
  - (iii)(A) Involve the use of innovative methods (including methods for educating adults with disabilities, homeless adults, and adults of limited English proficiency), systems, materials, or programs that may have national significance or will be of special value in promoting effective programs under the Act; or

(B) Involve programs of adult education, including education for adults with disabilities, homeless adults, and adults of limited English proficiency, that are part of community school programs, carried out in cooperation with other Federal, State, or local programs that have unusual promise in promoting a comprehensive or coordinated approach to the problems of adults with educational deficiencies; and

(2)(i) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act; and

(ii) Training professional teachers, volunteers, and administrators, with particular emphasis on—

(A) Training— (1) Full-time professional adult educators;

(2) Minority adult educators; and

(3) Educators of adults with limited English proficiency; and

(B) Training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have reading ability below the fifth grade level.

(b) An SEA shall use at least—

(1) 10 percent of its grant for the purposes in paragraph (a)(2) of this section; and

(2) Five percent of its grant for the purposes in paragraph (a)(1) or (a)(2) of this section, or both.

(c)(1) An SEA shall establish its own statewide criteria and priorities for providing and administering special experimental demonstration projects and teacher training projects.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains—

- (i) The information in § 461.31(c); and
- (ii) Any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1208)

**Subpart E—What Conditions Must be Met by a State?**

**§ 461.40 What are the State and local administrative costs requirements?**

(a)(1) Beginning with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appropriated in the fiscal year 1991 appropriation), an SEA may use no more than 5 percent of its grant or \$50,000—

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whichever is greater—for necessary and reasonable State administrative costs.

(2) For grants awarded from funds appropriated for fiscal years prior to fiscal year 1991 (grants awarded before July 1, 1991), an SEA may determine what percent of its grant is necessary and reasonable for State administrative costs.

(b)(1) At least 95 percent of an eligible recipient's award from the SEA must be expended for adult education instructional activities.

(2) The remainder may be used for local administrative costs—noninstructional expenses, including planning, administration, evaluation, personnel development, and coordination—that are necessary and reasonable.

(3) If the administrative cost limits under paragraph (b)(2) of this section are insufficient for adequate planning, administration, evaluation, personnel development, and coordination of programs supported under the Act, the SEA shall negotiate with local grant recipients in order to determine an adequate level of funds to be used for noninstructional purposes.

(Authority: 20 U.S.C. 1203b and 1205(c))

### § 461.41 What are the cost-sharing requirements?

(a) The Federal share of expenditures made under a State plan for any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico may not exceed—

(1) 90 percent of the costs of programs carried out with the fiscal year 1988 grant (a grant that is awarded on or after July 1, 1988 from funds appropriated in the fiscal year 1988 appropriation);

(2) 90 percent of the costs of programs carried out with the fiscal year 1989 (a grant that is awarded on or after July 1, 1989 from funds appropriated in the fiscal year 1989 appropriation);

(3) 85 percent of the costs of programs carried out with the fiscal year 1990 grant (a grant that is awarded on or after July 1, 1990 from funds appropriated in the fiscal year 1990 appropriation);

(4) 80 percent of the costs of programs carried out with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appro-

riated in the fiscal year 1991 appropriation); and

(5) 75 percent of the costs of programs carried out with the fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation) and from each grant thereafter.

(b) The Federal share for American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Virgin Islands is 100 percent.

(c) The Secretary determines the non-Federal share of expenditures under the State plan by considering—

(1) Expenditures from State, local, and other non-Federal sources for programs, services, and activities of adult education, as defined in the Act, made by public or private entities that receive from the State Federal funds made available under the Act or State funds for adult education; and

(2) Expenditures made directly by the State for programs, services, and activities of adult education as defined in the Act.

(Authority: 20 U.S.C. 1209(a); 48 U.S.C. 1681)

### § 461.42 What is the maintenance of effort requirement?

(a) *Basic standard.* (1)(i) Except as provided in § 461.43, a State is eligible for a grant from appropriations for any fiscal year only if the Secretary determines that the State has expended for adult education from non-Federal sources during the second preceding fiscal year (or program year) an amount not less than the amount expended during the third preceding fiscal year (or program year).

(ii) The Secretary determines maintenance of effort on a per student expenditure basis or on a total expenditure basis.

(2) For purposes of determining maintenance of effort, the “second preceding fiscal year (or program year)” is the fiscal year (or program year) two years prior to the year of the grant for which the Secretary is determining the State's eligibility. The “third preceding fiscal year (or program year)” is the fiscal year (or program year) three years prior to the year of the grant for