

**§ 40.3 Applications.**

Applications for educational loans, grants, and working scholarships shall be submitted through the superintendent or officer in charge of the agency at which the applicant is enrolled in the manner prescribed by the Commissioner.

**§ 40.4 Security.**

If a borrower or cosigner has security to offer for an educational loan it must be given in an amount adequate to protect the loan.

**§ 40.5 Repayments.**

Repayment schedules for educational loans may provide not to exceed two years for repayment for each year in school.

## PART 41—GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

### Subpart A—Tribally Controlled Community Colleges

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### Subpart A—Tribally Controlled Community Colleges

**§ 41.1 Purpose.**

The policy of the Department of the Interior is to support and encourage the establishment, operation, and improvement of tribally controlled community colleges to ensure continued and expanded educational opportunities for Indian students. The regulations in this subpart prescribe procedures for providing financial and technical assistance to this end under the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 25 U.S.C. 1801 *et seq.*).

**§ 41.2 Scope.**

The regulations in this subpart are applicable to the provision of financial and technical assistance to Community Colleges under title I of the Act. They do not apply to the provision of assistance to Navajo Community College. Subpart B of this part applies to assistance to Navajo Community College under title II of the Act.

**§ 41.3 Definitions.**

As used in this subpart A:

(a) *Academic term* means a semester, trimester, or other such period (not less than six (6) weeks in duration) into which a community college normally subdivides its academic year, but does not include a summer term.

(b) *Academic year* means a twelve month period established by a community college and approved by the Director of Education as the annual period for the operation of the college's education programs.

(c) *The Act* means the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 25 U.S.C. 1801 *et seq.*).

(d) *Assistant Secretary* means the Assistant Secretary for Indian Affairs of the Department of the Interior, or his/her duly authorized representative.

(e) *Community College* means an institution of higher education which (1) is formally controlled or operated and managed by the governing body of an Indian Tribe or by the governing bodies of two or more Indian Tribes, or (2) is established or is otherwise sanctioned or chartered by resolution, ordinance,

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or other official action (which is still in full force and effect) of such governing body or bodies. However, for purposes of this definition, only one such institution shall be recognized with respect to any one Tribe. A Community College that meets the requirements of this definition with respect to more than one Tribe must meet such requirements with respect to at least one Tribe that has no other currently formally controlled, operated and managed, established, sanctioned, or chartered Community College.

(f) *Director of Education* means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs, or his/her duly authorized representative.

(g) *Full time equivalent* or *FTE*, means the number of Indian students (1) enrolled full-time for an entire academic term at a community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term, plus (2) the full-time equivalent of the number of other Indian students who are enrolled part-time for an entire academic term at a community college (determined on the basis of the quotient of the sum of credit hours for which all such part-time students are registered during such academic term, divided by twelve (12)), calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term. The formula for calculating the Indian FTE for an academic term is expressed mathematically as  $FTE = FT + PTCR/12$  where FT is the number of full time Indian students (those carrying 12 or more credit hours at the end of the sixth week of the academic term) and PTCR is the number of credit hours for which part-time Indian students are registered at the end of the sixth week of an academic term.

(h) *Indian* means a person who is a member of an Indian Tribe and is eligible to receive services from the Secretary of the Interior because of his/her status as an Indian.

(i) *Indian Tribe* means an Indian tribe, band, nation, pueblo, rancheria, or other organized group or community, including any Alaskan Native Village or regional or village corporation as defined in or established under

the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) *Institution of higher education* as defined in Pub. L. 95-471 (incorporating in part 1201 of the Higher Education Act of 1965), means an educational institution in any State which

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate,

(2) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree,

(3) Is a public or other nonprofit institution, and

(4) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,

(A) Is an institution with respect to which the Commissioner of Education has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or

(B) Is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (3), and (4). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the

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ability to benefit from the training offered by the institution.

(k) *National Indian Organization* means any organization of Indians, found by the Director of Education to be nationally based, representing a substantial Indian constituency, and expert in the field of Indian education. Notice of such findings shall be published in the FEDERAL REGISTER with an opportunity for comment from the public and no such finding shall be effective earlier than 30 days after publication.

(l) *Operating expenses of education programs* means the obligations and expenditures of a community college for post-secondary activities, including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, fixed charges, and other related expenses, but not including expenditures for the acquisition or construction of academic facilities. (The term *academic facilities* means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs of an institution of higher education or as dormitories or student services buildings, and maintenance, storage, support, or utility facilities essential to operation of the foregoing facilities.)

(m) *Part-time* means registered for less than twelve (12) credit hours for an academic term; *full-time* means registered for twelve (12) or more credit hours for an academic term.

(n) *Unused portion of received funds* means the amount of financial assistance provided under this subpart to a Community College for an academic year which has not been obligated or expended by the Community College by July 1 of that academic year.

### § 41.4 Eligible recipients.

Financial assistance under this subpart shall be available only to a Community College which:

- (a) Is governed by a board of directors, regents, or trustees, a majority of whom are Indians;
- (b) Demonstrates its adherence to stated goals, a philosophy, or a plan of

operation which is directed to meet the needs of Indians, and has formally adopted, in writing, such goals, philosophy, or plan of operation, which may be in the form of a constitution, by-laws, or policy statement of the Community College;

(c) If in operation for more than one year, has students a majority of whom are Indian; and

(d) Upon completion of a feasibility study, receives a positive determination, and;

(e) Is not in violation of § 41.11 of this subpart.

### § 41.5 Eligible activities.

Financial assistance under this subpart shall be available to defray only the operating expenses of education programs of Community Colleges. Financial assistance under this subpart shall not be used for religious worship or sectarian instruction, but nothing in this subpart shall be construed as barring instruction in comparative religions or cultures or in languages of Indian tribes.

### § 41.6 HHS participation.

The Assistant Secretary for Indian Affairs is authorized to enter into an agreement with the Assistant Secretary for Education, Department of Health and Human Services, and to revise such agreement as necessary, to assist the Director of Education in the development of plans, procedures, and criteria for feasibility studies under this subpart, and to provide the Director with technical assistance in conducting such feasibility studies, including determinations as to the reasonable number of students required to support a Community College.

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### § 41.7 Feasibility studies.

(a) Grants under § 41.8 of this subpart may be made to a Community College only after a positive determination of feasibility as provided in this section.

(b) Within thirty (30) days of receiving a resolution or other duly authorized request from the governing body of one or more Indian Tribes, the Director of Education shall initiate a feasibility