

#### § 489.4

(ii) A prohibition on granting parole to any person described in paragraph (a)(2)(i) of this section who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) Adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the prison, jail, or detention center.

(b) The requirement of paragraph (a)(2)(i) does not apply to a person who—

(1) Is serving a life sentence without possibility of parole;

(2) Is terminally ill; or

(3) Is under a sentence of death.

(Authority: 20 U.S.C. 1211-2(b))

#### § 489.4 What regulations apply?

The following regulations apply to the Functional Literacy for State and Local Prisoners Program:

(a) The regulations in this part 489.

(b) The regulations in 34 CFR 460.3.

(Authority: 20 U.S.C. 1211-2)

#### § 489.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) As used in this part—

*Functional literacy* means at least an eighth grade equivalence, or a functional criterion score, on a nationally recognized literacy assessment.

*Local correctional agency* means any agency of local government that provides corrections services to incarcerated adults.

*Local correctional education agency* means any agency of local government, other than a local correctional agency, that provides educational services to incarcerated adults.

*State correctional agency* means any agency of State government that provides corrections services to incarcerated adults.

*State correctional education agency* means any agency of State government, other than a State correctional

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agency, that provides educational services to incarcerated adults.

(Authority: 20 U.S.C. 1211-2(f)(2))

### Subpart B—How Does One Apply for a Grant?

#### § 489.10 How does an eligible entity apply for a grant?

An eligible entity may receive a grant under this part if the entity submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, but not limited to, the following:

(a) An assurance that the entity will provide the Secretary such data as the Secretary may request concerning the cost and feasibility of operating the functional literacy programs authorized by § 489.1(a), including the annual reports required by § 489.30.

(b) A detailed plan outlining the methods by which the provisions of §§ 489.1 and 489.3 will be met, including specific goals and timetables.

(Approved by the Office of Management and Budget under control number 1830-0512)

(Authority: 20 U.S.C. 1211-2(d)(2))

### Subpart C—How Does the Secretary Make an Award?

#### § 489.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 489.21.

(b) The Secretary awards up to 100 points for these criteria, including 15 points that the Secretary assigns in accordance with paragraph (d) of this section.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For each competition under this part, the Secretary, in a notice published in the FEDERAL REGISTER, assigns 15 points among the criteria in § 489.21.

(Authority: 20 U.S.C. 1211-2)