

## §41.11

the type and source of technical assistance is specified in the request, the Director, to the extent possible or feasible, shall provide the type of technical assistance through the source so specified. Technical assistance may include, but is not limited to, consulting services for the development of programs, plans, and feasibility studies and accounting, and other technical advice. In awarding of contracts for technical assistance, preference shall be given to an organization designated by the Community College to be assisted. Denials of requests for technical assistance under this section shall be made in writing and sent to the applicant within thirty (30) days of the request, together with a statement of the reason for denial. An appeal under this section may be undertaken in the same manner as in the case of negative determinations of feasibility under §41.7 of his subpart.

### §41.11 General provisions.

The general requirements for grant administration in this section are applicable to all grants provided under this subpart to Community Colleges:

(a) Services or assistance provided to Indians by Community Colleges aided under this subpart shall be provided in a fair and uniform manner, and admission to any such Community College shall not be denied to any Indian student because such individual is not a member of a specific Indian tribe or because such individual is a member of a specific Indian tribe.

(b) Except as may be otherwise provided in this subpart, any Community College receiving financial assistance under this subpart shall comply with part 276 of this title, subject to any express waiver of specific inappropriate provisions of part 276 that may be granted by the Assistant Secretary after request and justification by the Community College.

(c) A Community College shall have the right to appeal any adverse decision of the Director of Education under a grant agreement to the Assistant Secretary by filing written notice of appeal with the Assistant Secretary within thirty (30) days after the adverse decision. Within thirty (30) days after receiving notice of appeal, the As-

## 25 CFR Ch. I (4-1-08 Edition)

sistant Secretary shall conduct a formal hearing at which time the College may present evidence and argument to support its appeal. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying, or reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his/her ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

### §41.12 Annual budget.

Appropriations under title I of the Tribally Controlled Community College Assistance Act of 1978 shall be separately identified in the Bureau of Indian Affairs Budget Justification. Funds appropriated for grants under this subpart shall not be commingled with other funds expended by the Bureau of Indian Affairs.

### §41.13 Criminal penalties.

Persons submitting or causing to be submitted to the Bureau any false information in connection with any application, report, or other document, upon which the provision of Federal financial assistance or any other payment of Federal funds is based, may be subject to criminal prosecution under provisions such as sections 287, 371, or 1001 of title 18, U.S. Code.

## Subpart B—Navajo Community College

### §41.20 Policy.

It is the policy of this Department to support and encourage the establishment, operation, and improvement of tribally controlled community colleges in order 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 for the Navajo Community College under the Navajo Community College Act, as amended (25 U.S.C. 640a-c).

### §41.21 Scope.

The regulations in this subpart are applicable to the provision of financial

## Bureau of Indian Affairs, Interior

## § 41.23

and technical assistance to Navajo Community College pursuant to the Navajo Community College Act of December 15, 1971 (Pub. L. 92-189, 85 Stat. 646, 25 U.S.C. 640a-c) as amended by the Navajo Community College Assistance Act of 1978, title II of the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 1329, 25 U.S.C. 640c). Regulations applicable to Tribally Controlled Community Colleges other than Navajo Community College are found in subpart A of this part 41.

### § 41.22 Definitions.

As used in this subpart:

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

(b) *Academic year* means a twelve month period established by the 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 Navajo Community College Act of December 15, 1971 (Pub. L. 92-189, 85 Stat. 646) as amended by the Navajo Community College Assistance Act of 1978, (Pub. L. 95-471, title II, 92 Stat. 1329, 25 U.S.C. 640a 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) *College* means the institution known as Navajo Community College established by the Navajo Tribe.

(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 the 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 the 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 (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) *Operating and Maintenance Expenses of Education Programs* means the obligation and expenditures by the College for post-secondary education activities including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, and fixed charges, and other related expenses, but not including obligations or expenditures for the acquisition or construction of academic facilities (as defined in § 41.3(l) of subpart A).

### § 41.23 Eligible activities.

Financial assistance under this subpart shall be available to defray only the operating and maintenance expenses of education programs of the College. 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.