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age or grade level in the same LEA or consortium of LEAs, as the students to whom the special curriculum is offered in the magnet schools. This term does not include:

(1) A course of study or a part of a course of study designed solely to provide basic educational services to handicapped students or to students of limited English-speaking ability;

(2) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited English-speaking ability;

(3) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited financial resources; or

(4) A course of study or a part of a course of study that fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools.

(Authority: 20 U.S.C. 7231-7231j)

[50 FR 21191, May 22, 1985, as amended at 51 FR 20414, June 4, 1986; 54 FR 19508 and 19509, May 5, 1989; 57 FR 61509, Dec. 24, 1992; 60 FR 14865, Mar. 20, 1995; 69 FR 4996, Feb. 2, 2004]

Subpart B—What Types of Projects Does the Secretary Assist Under This Program?

§ 280.10 What types of projects does the Secretary assist?

(a) The Secretary funds applications proposing projects in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(b) For the purposes of this part, an approved desegregation plan is a desegregation plan described in § 280.2 (a) or (b).

(c) In the case of a desegregation plan described in § 280.2(a)(1), any modification to that plan must be approved by the court, agency, or official that approved the plan.

(Authority: 20 U.S.C. 7203)

[50 FR 21191, May 22, 1985, as amended at 51 FR 20414, June 4, 1986; 54 FR 19508 and 19509, May 5, 1989]

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Subpart C—How Does One Apply for a Grant?

§ 280.20 How does one apply for a grant?

(a) Each eligible LEA or consortium of LEAs that desires to receive assistance under this part shall submit an annual application to the Secretary.

(b) In its application, the LEA or consortium of LEAs shall provide assurances that it—

(1) Will use funds made available under this part for the purposes specified in section 5301(b) of the Act;

(2) Will employ highly qualified teachers in the courses of instruction assisted under this part;

(3) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in the assignment of students to schools or to courses of instruction within schools of the agency, except to carry out the approved desegregation plan;

(5) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in designing or operating extracurricular activities for students;

(6) Will carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(7) Will give students residing in the local attendance area of the proposed magnet school program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate students.

(c) In addition to the assurances listed in paragraph (b) of this section, the LEA or consortium of LEAs shall provide such other assurances as the Secretary determines necessary to carry out the provisions of this part.

(d) Upon request, the LEA or consortium of LEAs shall submit any information that is necessary for the Assistant Secretary for Civil Rights to determine whether the assurances required

in paragraphs (b) (3), (4), and (5) of this section will be met.

(e) An LEA or consortium of LEAs that has an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan.

(2) An assurance that the plan is being implemented as approved.

(f) An LEA or consortium of LEAs that does not have an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan the LEA or consortium of LEAs is submitting for approval.

(2) A copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it upon the award of assistance under this part.

(3) Evidence that the plan is a desegregation plan as defined in §280.4(b).

(4) For an LEA or consortium of LEAs that seeks assistance for existing magnet schools—

(i) Enrollment numbers and percentages, for minority and non-minority group students, for each magnet school for which funding is sought and each feeder school—

(A) For the school year prior to the creation of each magnet school;

(B) For the school year in which the application is submitted; and

(C) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures); and

(ii) Districtwide enrollment numbers and percentages for minority group students in the LEA's or consortium of LEAs' schools, for grade levels involved in the applicant's magnet schools (e.g., K-6, 7-9, 10-12)—

(A) For the school year prior to the creation of each magnet school;

(B) For the school year in which the application is submitted; and

(C) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures).

(5) For an LEA or consortium of LEAs that seeks assistance for new magnet schools—

(i) Enrollment numbers and percentages, for minority and non-minority group students, for each magnet school

for which funding is sought and for each feeder school—

(A) For the school year in which the application is submitted; and

(B) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures); and

(ii) Districtwide numbers and percentages of minority group students in the LEA's or consortium of LEAs' schools, for the grade levels involved in the applicant's magnet schools (e.g., K-6, 7-9, 10-12)—

(A) For the school year in which the application is submitted; and

(B) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures).

(g) An applicant that does not have an approved desegregation plan, and demonstrates that it cannot provide some portion of the information requested under paragraphs (f)(4) and (5) of this section, may provide other information (in lieu of that portion of the information not provided in response to paragraphs (f)(4) and (5) of this section) to demonstrate that the creation or operation of its proposed magnet school would reduce, eliminate, or prevent minority group isolation in the applicant's schools and would not result in an increase of minority student isolation at one of the applicant's schools above the districtwide percentage for minority students at the same grade levels as those served in the magnet school.

(h) After reviewing the information provided in response to paragraph (f)(4) or (5) of this section, or as provided under paragraph (g) of this section, the Secretary may request other information, if necessary (e.g., demographic data concerning the attendance areas in which the magnet schools are or will be located), to determine whether to approve an LEA's or consortium of LEAs' plan.

(i) In addition to including the assurances required by this section, an LEA or consortium of LEAs shall describe in its application—

(1) How the applicant will use assistance made available under this part to promote desegregation, including how the proposed magnet school programs

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will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(2) How and to what extent the assistance will increase student academic achievement in instructional areas offered;

(3) How the LEA or consortium of LEAs will continue the magnet schools program after assistance under this part is no longer available, including, if applicable, why magnet schools previously established or supported with Magnet Schools Assistance Program grant funds cannot be continued without the use of funds under this part;

(4) How assistance will be used to—

(i) Improve student academic achievement for all students attending the magnet school programs; and

(ii) Implement services and activities that are consistent with other programs under the Act and other statutes, as appropriate; and

(5) What criteria will be used in selecting students to attend the proposed magnet schools program.

(Approved by the Office of Management and Budget under control number 1855-0011)

(Authority: 20 U.S.C. 7231d)

[50 FR 21191, May 22, 1985, as amended at 54 FR 19508, May 5, 1989; 57 FR 61509, Dec. 24, 1992; 60 FR 14865, Mar. 20, 1995; 69 FR 4997, Feb. 2, 2004]

Subpart D—How Does the Secretary Make a Grant?

§ 280.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application under the procedures in 34 CFR part 75 and this part.

(b) To evaluate an application for a new grant the Secretary may use—

(1) Selection criteria established under 34 CFR 75.209;

(2) Selection criteria in § 280.31;

(3) Selection criteria established under 34 CFR 75.210; or

(4) Any combination of criteria from paragraphs (b)(1), (b)(2), and (b)(3) of this section.

(c) The Secretary indicates in the application notice published in the FEDERAL REGISTER the specific criteria that the Secretary will use and how

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points for the selection criteria will be distributed.

(d) The Secretary evaluates an application submitted under this part on the basis of criteria described in paragraph (c) of this section and the priority factors in § 280.32.

(e) The Secretary awards up to 100 points for the extent to which an application meets the criteria described in paragraph (c) of this section.

(f) The Secretary then awards up to 30 additional points based upon the priority factors in § 280.32.

(Approved by the Office of Management and Budget under control number 1855-0011)

(Authority: 20 U.S.C. 7231-7231j)

[72 FR 10607, Mar. 9, 2007]

§ 280.31 What selection criteria does the Secretary use?

The Secretary may use the following selection criteria in evaluating each application:

(a) *Plan of operation.* (1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary determines the extent to which the applicant demonstrates—

(i) The effectiveness of its management plan to ensure proper and efficient administration of the project;

(ii) The effectiveness of its plan to attain specific outcomes that—

(A) Will accomplish the purposes of the program;

(B) Are attainable within the project period;

(C) Are measurable and quantifiable; and

(D) For multi-year projects, can be used to determine the project's progress in meeting its intended outcomes;

(iii) The effectiveness of its plan for utilizing its resources and personnel to achieve the objectives of the project, including how well it utilizes key personnel to complete tasks and achieve the objectives of the project;

(iv) How it will ensure equal access and treatment for eligible project participants who have been traditionally underrepresented in courses or activities offered as part of the magnet