

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

[BOP-1035-F]

RIN 1120-AA35

Postsecondary Education Programs for Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising its regulations on Postsecondary Education Programs for Inmates in order to clarify requirements for tuition funding sources and to make various administrative changes in the operation of the program. The intent of this regulation is to provide for the more efficient use of Bureau resources.

EFFECTIVE DATE: May 7, 1997.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Postsecondary Education Programs for Inmates. A final rule on this subject was published in the *Federal Register* June 29, 1979 (44 FR 38249).

Existing regulations for Postsecondary Education Programs for Inmates allowed institutions the discretion to pay for the costs of college-level courses. The decision to provide payment in such cases depended upon Bureau resources, the availability of other sources of support, and a determination as to participation being an appropriate or a necessary component of the inmate's correctional program. In cases where participation was determined to be a necessary component of the inmate's correctional program, the institution was authorized to pay total costs for courses and related expenses; in cases where participation was determined to be an appropriate component of the inmate's correctional program, the institution was authorized to pay up to 50 percent of the costs for courses and related expenses.

As revised, these provisions have been simplified to clarify those conditions under which the Bureau may pay for tuition. As revised, the provisions in new § 544.23(d) specify that the Bureau may pay for tuition, as institution resources allow, if the inmate

is unable to pay using personal funds or other sources, and that the course is part of a one year certificate or two year Associate Arts degree program directly related to preparation for a specific occupation/vocation. No distinction is made as to whether participation is necessary rather than merely appropriate.

Additional changes include the following. Section 544.20 has been revised for the sake of conciseness. Provisions in that section defining "postsecondary education programs" (formerly described as "college-level courses") have been transferred to a new § 544.21. Provisions specifying that the Warden shall establish procedures for implementation of college-level courses have been redelegated to a postsecondary education coordinator in new § 544.23 (a).

New § 544.22 specifies that inmates ordinarily shall be required to have a verified high school diploma or General Educational Development (GED) certificate prior to enrollment in a college-level (degree) program. This requirement conforms to normal existing enrollment requirements of the educational institutions which provide the coursework.

New § 544.23 contains procedures for the further operation of postsecondary education programs. Paragraph (a) specifies that the Warden or designee shall appoint a postsecondary education coordinator (ordinarily an education staff member) who shall be responsible for coordinating the institution's postsecondary education program. Paragraphs (b) and (c) provide procedures for unit team review and application. As noted above, paragraph (d) simplifies and consolidates the provisions of former §§ 544.21 regarding funding sources for payment of tuition.

Because this amendment imposes no new restrictions on inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons certifies that this rule, for the

purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 544

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 544 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

1. The authority citation for 28 CFR part 544 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart C, consisting of §§ 544.20 through 544.21, is revised to consist of §§ 544.20 through 544.23 to read as follows:

Subpart C—Postsecondary Education Programs for Inmates

Sec.

544.20 Purpose and scope.

544.21 Definition.

544.22 Enrollment requirements.

544.23 Procedures.

Subpart C—Postsecondary Education Programs for Inmates

§ 544.20 Purpose and scope.

The Bureau of Prisons offers interested inmates the opportunity to participate in postsecondary education programs whenever staff recommends such enrollment to meet a correctional goal.

§ 544.21 Definition.

The term *postsecondary education programs* as defined in this subpart shall include courses of study, including correspondence courses, provided by junior or community colleges, four-year colleges and

universities, and postsecondary vocational or technical schools.

§ 544.22 Enrollment requirements.

Inmates ordinarily shall be required to have a verified high school diploma or General Educational Development (GED) certificate prior to enrollment in a college-level (degree) program.

§ 544.23 Procedures.

(a) The Warden or designee shall appoint a postsecondary education coordinator (ordinarily an education staff member) who shall have the responsibility for coordinating the

institution's postsecondary education program.

(b) An inmate who wishes to participate in a postsecondary education program must meet with his or her unit team to determine if such participation meets an appropriate correctional program goal.

(c) If unit team staff agree that the inmate's participation meets an appropriate correctional goal, the inmate may apply through the postsecondary education coordinator.

(d) The inmate is expected to pay the tuition from personal funds or other

sources. If resources allow, the institution may pay the tuition if all of the following apply:

(1) The inmate is unable to pay for the tuition from personal funds or other sources;

(2) The course is directly related to preparation for a specific occupation/vocation;

(3) The course is part of a one year certificate or a two year Associate Arts degree program.

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