

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 67 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is mandatory per the Individuals with Disabilities Education Act of 2004 (IDEA) and its corresponding regulations 34 CFR Part 304 printed in the Federal Register Volume 70 No. 57 March 25, 2005 and Vol. 71 No. 107 June 5, 2006. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20210-4537 or email ICDocketMgr@ed.gov and reference the OMB Control Number 1820-0686. Note: Please do not return the completed Service Obligation Agreement to this address.

Service Obligation Agreement

For a Scholarship Received from a Personnel Preparation to Improve Services and Results for Children with Disabilities Grant Awarded in Fiscal Year 2006 and Any Year Thereafter

Service Obligation Agreement
Between

Name of Scholar

And

Name of Grantee

Prior to granting a scholarship, the grantee will require each scholar to enter into a written agreement in which the scholar agrees to the terms and conditions set forth in the regulations published on June 5, 2006 implementing section 662(h) of IDEA (see 34 CFR part 304), including the requirement that the Secretary track the service obligations of scholarship recipients. These requirements are attached. The requirements and FAQs are also available at <http://www.serviceobligations.ed.gov/ProgramRegs2006.cfm>, and <http://www.serviceobligations.ed.gov/2006faq.cfm>. According to section 304.23(a), the Secretary may grant a deferral or an exception to the work or repayment requirements upon request, if a scholar or an obligee can provide sufficient evidence to substantiate eligibility.

The current address of the Department of Education for purposes of this agreement is:
OSEP Service Obligations Contact
Grants Awarded in FY2005, FY2006 and Any Year Thereafter
US Department of Education
Office of Special Education Programs
400 Maryland Avenue, SW
Washington, DC 20202-2600

To Be Completed by the Grantee

Grant Award Number: H325
Grantee:
Project Title:
Course of Study or Program:
Project Director:
Date of Scholarship Assistance and Service Obligation Meeting:

To Be Completed by the Scholar

Scholar Name:
Date of Birth:
Social Security Number:
Street Address:
City, State, Zip Code:
E-mail Address:

Alternate Contact Information

Name:
Relationship:
Street Address:
City, State, Zip Code:
Telephone Number:
E-mail Address:

To Be Completed by Scholar

I have:

- (a) read and understand the attached service obligation regulations and FAQs, including the service obligation of two years of service for every academic year of support or to repay the scholarship;
- (b) read the US Citizenship and Residency Requirements as outlined in § 304.22 Requirements for grantees in disbursing scholarship of the 2006 Regulations;
- (c) provided the information requested of me in this Agreement to the grantee representative;
- (d) completed the Certification of Eligibility for Federal Assistance form (ED 80-0016); and
- (e) I agree to comply with the regulations published on June 5, 2006 implementing section 662(h) of IDEA (see 34 CFR part 304), including the requirement to provide the information necessary to the Secretary to track my service obligation.

_____ Scholar Name (Please print)	_____ Scholar Signature	_____ Date
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To be Completed by Grantee Representative

I have met with the scholar and discussed the service obligation requirements and provided him/her with a copy of the regulations and the frequently asked questions.

_____ Grantee Representative Name (Please print)	_____ Grantee Representative Signature	_____ Date
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Exit Certification
For a Scholarship Received from a Personnel Preparation to Improve Services and Results
for Children with Disabilities
Grant Awarded in Fiscal Year 2006 and Any Year Thereafter

To be completed by the Grantee Representative/Project Director when a scholar exits or completes the program:

Grant Award Number: _____

Institution of Higher Education: _____

Grantee Representative: _____

Project Title: _____

Service Obligation Information

Number of academic years IDEA scholarship assistance was received	
Date of program completion	
Total amount of IDEA scholarship assistance received	\$
Number of years of eligible work needed to satisfy the service obligation	
Time period during which the scholar must satisfy the service obligation	

To be completed by the Grantee Representative or Scholar upon exiting or completing the program:

Scholar Contact Information

Scholar Name	
Scholar Social Security Number	
Scholar Address after Completing or Exiting the Program	



Federal Register

**Monday,
June 5, 2006**

Part IV

Department of Education

34 CFR Part 304

**Service Obligations Under Special
Education; Preparation of Leadership
Personnel; Combined Priority for
Personnel Preparation; Interdisciplinary
Training in Analysis of Large-Scale
Databases; Final Rule and Notices**

DEPARTMENT OF EDUCATION**34 CFR Part 304**

RIN 1820-AB58

Service Obligations Under Special Education—Personnel Development to Improve Services and Results for Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations governing specific provisions of the Personnel Development to Improve Services and Results for Children with Disabilities program authorized under part D of the Individuals with Disabilities Education Act, as amended (IDEA or Act). The regulations are needed to implement changes made to IDEA, as amended by the Individuals with Disabilities Education Improvement Act of 2004.

DATES: These regulations are effective July 5, 2006.

FOR FURTHER INFORMATION CONTACT:

Louis C. Danielson, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, room 4160, Washington, DC 20202-2641. Telephone: (202) 245-7371.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay System (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT.

SUPPLEMENTARY INFORMATION: These regulations implement specific provisions of part D of the IDEA. On June 21, 2005, we published a notice of proposed rulemaking (NPRM) in the *Federal Register* (70 FR 35782) (NPRM) to amend the regulations governing the Assistance to States for the Education of Children with Disabilities Program; Preschool Grants for Children with Disabilities Program; and Service Obligations under Special Education—Personnel Development to Improve Services and Results for Children with Disabilities. The proposed regulations for Service Obligations under Special Education—Personnel Development to Improve Services and Results for Children with Disabilities in 34 CFR part 304 are described on pages 35817 through 35818 of the preamble to the NPRM. The text of the proposed

regulations can be found on pages 35890 through 35892 of the NPRM.

In the preamble to the NPRM, the Secretary discussed the major changes proposed in that document to implement the provisions of the Service Obligations under Special Education—Personnel Development to Improve Services and Results for Children with Disabilities program, as specified in section 662(h) of the Act. These included the following:

- Clarifying in §§ 304.21 and 304.22 that stipends are not included in the cost of attendance and are not limited by the cap in § 304.22(b).
- Clarifying in § 304.30 that the Secretary is responsible for ensuring that scholars comply with the service obligation requirements.
- Describing in one section—§ 304.30—all of the requirements a scholar must meet.

As more fully explained in the *Analysis of Comments and Changes* section of this notice, these final regulations for part 304 contain several changes from the regulations proposed in the NPRM.

Major Changes in the Regulations

The following is a summary of the major substantive changes in these final regulations from the regulations proposed in the NPRM:

1. Eligible employment options for scholars have been expanded (§ 304.30(e)(3)).
2. The number of additional years allowed to fulfill a scholar's service obligation has been increased from three to five years (§ 304.30(f)(1)).

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, five parties submitted comments on the proposed regulations for the Service Obligations Under Special Education—Personnel Development to Improve Services and Results for Children with Disabilities (Personnel Development Program). An analysis of the comments and of the changes in the regulations since publication of the NPRM follows. We discuss substantive issues under the section to which they pertain. References to sections in this analysis are to those contained in the final regulations. The analysis generally does not address minor changes, including technical changes made to the language published in the NPRM, suggested changes the Secretary is not legally authorized to make under applicable statutory authority, or comments that express concerns of a general nature about the Department or other matters

that are not directly relevant to these regulations.

Assurances that Must be Provided by Grantee (§ 304.23)

Comment: None.

Discussion: Upon further review, the Department has determined that, at the time of exit from the program, the grantee should provide the scholar with a list containing all of the scholar's obligations under § 304.30, and the scholar should certify that this list of obligations is correct. We believe that this requirement should be added because it clarifies that the grantees, which have the best access to this information, are responsible for sharing this information with the scholars.

Change: We have deleted the requirement contained in § 304.23(c) that the grantee must "establish policies and procedures for receiving and maintaining records of written certification from scholars." We have modified § 304.23(c) by adding new §§ 304.23(c)(1) and (2), which require the grantee to provide information to the scholar and specify that, upon receipt of this information, the scholar must provide written certification to the grantee that this information is correct.

Requirements for Scholar (§ 304.30(e))

Comment: A few commenters stated that the "majority of children" and the "majority of time" requirements in § 304.30(e)(1) and (2) cause hardship for some scholars. The commenters stated that scholars who provide direct services in early intervention and adaptive physical education are most impacted by these requirements because early intervention and adaptive physical education positions involve working primarily, or exclusively, in settings in which scholars provide educational services, but not necessarily special education services, to students with the full range of abilities and disabilities in a general education setting. The commenters recommended eliminating the current "majority of children" and the "majority of time" requirements in § 304.30(e)(1) and (2) and instead requiring only that scholars "provide special education and related services to children with disabilities * * *" consistent with section 662(h)(1) of the Act.

Discussion: The Department supports the provision of special education and related services and early intervention services in settings with nondisabled children. However, the Department believes that the limited funds available for the Personnel Development Program should be targeted to support and train scholars who, following completion of

training, will be employed in positions (other than supervisory, postsecondary faculty, research, policy, technical assistance, program development, or administration) that meet the "majority of time" or the "majority of children" requirements in § 304.30(e)(1) and (2) to ensure that the need for qualified special education personnel can be met. The Department believes that these majority requirements are necessary to ensure that there are sufficient numbers of qualified personnel to provide the most effective special education, related services, and early intervention services to infants, toddlers, and children with disabilities.

Changes: None.

Comment: None.

Discussion: Upon internal review, the Department has determined that it would be helpful to define more precisely the term "majority," as it is used in § 304.30(e).

Changes: We have modified the language in § 304.30(e) to substitute the term "51 percent" for the term "majority" throughout this section.

Comment: A few commenters stated that the range of employment options to satisfy the service obligation requirements in § 304.30(e)(3) through (5) is too restrictive and should be expanded. The commenters stated that scholars should be allowed to satisfy their service obligation through work in other areas, such as policy, administration, professional development, technical assistance, and program development related to special education, related services, and early intervention services.

Discussion: The Department agrees that there may be situations in which an individual can fulfill his or her service obligation in a position that is not described in § 304.30(e), including positions involving policy, technical assistance, program development, or administration, when the individual spends at least 51 percent of his or her time performing work related to the training for which a scholarship was received.

Changes: We have deleted § 304.30(e)(4) and (5), and modified the language in § 304.30(e)(3) to clarify that, in addition to positions involving supervision, teaching at the postsecondary level, and research, a scholar may fulfill the scholar's service obligation in a position involving policy, technical assistance, program development, or administration when the scholar spends at least 51 percent of his or her time performing work related to the training for which a scholarship was received under section 662 of the Act.

Comment: A few commenters stated that recent Federal education policy, as articulated in the No Child Left Behind Act of 2001 and the 2004 reauthorization of IDEA, focuses on addressing the needs and performance of children with disabilities within programs, policies, and procedures of the general education system. The commenters recommended that the Department expand the eligible employment options to include, under limited circumstances, employment that addresses the needs of children with disabilities within the broader context of prevention and intervention initiatives in the general education system that are designed to accommodate the needs of a wide range of children.

Discussion: The purpose of providing scholarships under the Personnel Development Program is to ensure that there are sufficient numbers of qualified personnel to provide special education, related services, and early intervention services to infants, toddlers, and children with disabilities. While scholarships under this program may be used to provide support for training and professional development on topics leading to the identification of children with disabilities (e.g., progress monitoring and response to intervention), we do not believe scholars should be permitted to satisfy their service obligation in positions that focus primarily on nondisabled students or nondisabled students who may be at risk of having a disability.

Changes: None.

Time Period (§ 304.30(f))

Comment: A few commenters suggested changing the length of the service obligation in § 304.30(f)(1) so that scholars who are unable to satisfy the "majority of children" or the "majority of time" requirement in any single year would either automatically be subject to one extra year of service, or, upon request, receive a deferral of up to two years.

Discussion: Section 304.30(f)(1) requires scholars to complete at least two years of service obligation for every academic year for which assistance was received and to complete their service obligation in not more than the sum of the number of years required plus three additional years. The Department recognizes that some employment circumstances may make it difficult for scholars to fulfill their service obligation, as defined in § 304.30(e), within this time period. While implementing the commenters' recommendations would be too complex and burdensome to administer

and monitor, we believe it would be appropriate to expand the number of years that scholars will have to fulfill their service obligation.

Changes: We have revised § 304.30(f)(1) to allow all scholars five, instead of three, additional years to fulfill their service obligation.

Comment: A few commenters expressed concern that, when scholars who are qualified service providers before they enter an academic program (e.g., teachers returning to school for a masters degree) do not complete one academic year of study because of personal or professional reasons, they must repay their scholarship. The commenters stated that these scholars, who are already qualified to provide special education, related services, or early intervention services to children with disabilities, should be permitted to satisfy their obligation through service, rather than repaying the cost of the scholarship, even though they have not accumulated one year of academic credit, as required in § 304.30(f)(2).

Discussion: The Department believes that scholars are unlikely to make substantial gains in their knowledge and skills in less than one year such that they would be able to provide improved special education, related services, or early intervention services to infants, toddlers, and children with disabilities.

Changes: None.

Executive Order 12866

These final regulations have been reviewed by the Office of Management and Budget (OMB) as a significant regulatory action in accordance with Executive Order 12866. Under the terms of the order we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those we have determined to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits of these final regulations, we have determined that the benefits of the regulations justify the costs.

Summary of Potential Costs and Benefits

Service Obligation Tracking Burden

The statutory change incorporated in these final regulations, which shifts the burden for ensuring that scholars comply with their service obligation from grantees to the Secretary, was not specifically addressed in the *Summary of potential costs and benefits section* contained in the NPRM because this

change does not impose any additional burden on grantees, and will not result in any significant additional costs or benefits.

We include additional discussion of potential costs and benefits in the section of this preamble titled *Analysis of Comment and Changes*.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. The collection of information in these final regulations has been approved by OMB under OMB control number 1820-0622. We also display this OMB control number in these final regulations at the end of the affected sections of the regulations.

The clarification of the written certification requirement from the scholar in § 304.23(c)(2) was not discussed in the NPRM but has been added to the final regulations. This imposes a new information collection requirement, however, it does not fall under the Paperwork Reduction Act's definition of "information" as explained in 5 CFR 1320.3(h).

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal Financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

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(Catalog of Federal Domestic Assistance Number 84.325 Personnel Development to Improve Services and Results for Children with Disabilities).

List of Subjects in 34 CFR Part 304

Service obligations under special education—personnel development to improve services and results for children with disabilities.

Dated: May 26, 2006.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

■ For the reasons set forth above, the Department revises 34 CFR part 304 to read as follows:

PART 304—SERVICE OBLIGATIONS UNDER SPECIAL EDUCATION—PERSONNEL DEVELOPMENT TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

Subpart A—General

Sec.

304.1 Purpose.

304.3 Definitions.

Subpart B—Conditions That Must Be Met by Grantee

304.21 Allowable costs.

304.22 Requirements for grantees in disbursing scholarships.

304.23 Assurances that must be provided by grantee.

Subpart C—Conditions That Must Be Met by Scholar

304.30 Requirements for scholar.

304.31 Requirements for obtaining an exception or deferral to performance or repayment under an agreement.

Authority: 20 U.S.C. 1462(h), unless otherwise noted.

Subpart A—General

§ 304.1 Purpose.

Individuals who receive scholarship assistance from projects funded under the Special Education—Personnel Development to Improve Services and

Results for Children with Disabilities program are required to complete a service obligation, or repay all or part of the costs of such assistance, in accordance with section 662(h) of the Act and the regulations of this part.

(Authority: 20 U.S.C. 1462(h))

§ 304.3 Definitions.

The following definitions apply to this program:

(a) *Academic year* means—

(1) A full-time course of study—

(i) Taken for a period totaling at least nine months; or

(ii) Taken for the equivalent of at least two semesters, two trimesters, or three quarters; or

(2) For a part-time scholar, the accumulation of periods of part-time courses of study that is equivalent to an "academic year" under paragraph (a)(1) of this definition.

(b) *Act* means the Individuals with Disabilities Education Act, as amended, 20 U.S.C. 1400 *et seq.*

(c) *Early intervention services* means early intervention services as defined in section 632(4) of the Act and includes early intervention services to infants and toddlers with disabilities, and as applicable, to infants and toddlers at risk for disabilities under sections 632(1) and 632(5)(b) of the Act.

(d) *Full-time*, for purposes of determining whether an individual is employed full-time in accordance with § 304.30 means a full-time position as defined by the individual's employer or by the agencies served by the individual.

(e) *Related services* means related services as defined in section 602(26) of the Act.

(f) *Repayment* means monetary reimbursement of scholarship assistance in lieu of completion of a service obligation.

(g) *Scholar* means an individual who is pursuing a degree, license, endorsement, or certification related to special education, related services, or early intervention services and who receives scholarship assistance under section 662 of the Act.

(h) *Scholarship* means financial assistance to a scholar for training under the program and includes all disbursements or credits for tuition, fees, stipends, books, and travel in conjunction with training assignments.

(i) *Service obligation* means a scholar's employment obligation, as described in section 662(h) of the Act and § 304.30.

(j) *Special education* means special education as defined in section 602(29) of the Act.

(Authority: 20 U.S.C. 1462(h))

Subpart B—Conditions That Must be Met by Grantee**§ 304.21 Allowable costs.**

In addition to the allowable costs established in the Education Department General Administrative Regulations in 34 CFR 75.530 through 75.562, the following items are allowable expenditures by projects funded under the program:

(a) Cost of attendance, as defined in Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1087// (HEA), including the following:

- (1) Tuition and fees.
- (2) An allowance for books, supplies, transportation, and miscellaneous personal expenses.
- (3) An allowance for room and board.
- (b) Stipends.
- (c) Travel in conjunction with training assignments.

(Authority: 20 U.S.C. 1462(h))

§ 304.22 Requirements for grantees in disbursing scholarships.

Before disbursement of scholarship assistance to an individual, a grantee must—

- (a) Ensure that the scholar—
 - (1) Is a citizen or national of the United States;
 - (2) Is a permanent resident of—
 - (i) Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or
 - (ii) The Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau during the period in which these entities are eligible to receive an award under the Personnel Development to Improve Services and Results for Children with Disabilities program; or
 - (3) Provides evidence from the U.S. Department of Homeland Security that the individual is—
 - (i) A lawful permanent resident of the United States; or
 - (ii) In the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;
- (b) Limit the cost of attendance portion of the scholarship assistance (as discussed in § 304.21(a)) to the amount by which the individual's cost of attendance at the institution exceeds the amount of grant assistance the scholar is to receive for the same academic year under title IV of the HEA; and
- (c) Obtain a Certification of Eligibility for Federal Assistance from each scholar, as prescribed in 34 CFR 75.60, 75.61, and 75.62.

(Authority: 20 U.S.C. 1462(h))

§ 304.23 Assurances that must be provided by grantee.

Before receiving an award, a grantee that intends to grant scholarships under the program must include in its application an assurance that the following requirements will be satisfied:

(a) *Requirement for agreement.* Prior to granting a scholarship, the grantee will require each scholar to enter into a written agreement in which the scholar agrees to the terms and conditions set forth in § 304.30. This agreement must explain the Secretary's authority to grant deferrals and exceptions to the service obligation pursuant to § 304.31 and include the current Department address for purposes of the scholar's compliance with § 304.30(i), or any other purpose under this part.

(b) *Standards for satisfactory progress.* The grantee must establish, notify scholars of, and apply reasonable standards for measuring whether a scholar is maintaining satisfactory progress in the scholar's course of study.

(c) *Exit certification.*

(1) At the time of exit from the program, the grantee must provide the following information to the scholar:

- (i) The number of years the scholar needs to work to satisfy the work requirements in § 304.30(d);
- (ii) The total amount of scholarship assistance received subject to § 304.30;
- (iii) The time period, consistent with § 304.30(f)(1), during which the scholar must satisfy the work requirements; and
- (iv) As applicable, all other obligations of the scholar under § 304.30.

(2) Upon receipt of this information from the grantee, the scholar must provide written certification to the grantee that the information is correct.

(d) *Information.* The grantee must forward the information and written certification required in paragraph (c) of this section to the Secretary, as well as any other information that is necessary to carry out the Secretary's functions under section 662 of the Act and this part.

(e) *Notification to the Secretary.* If the grantee is aware that the scholar has chosen not to fulfill or will be unable to fulfill the obligation under § 304.30(d), the grantee must notify the Secretary when the scholar exits the program.

(Approved by the Office of Management and Budget under control number 1820-0622)

(Authority: 20 U.S.C. 1462(h))

Subpart C—Conditions That Must Be Met by Scholar**§ 304.30 Requirements for scholar.**

Individuals who receive scholarship assistance from grantees funded under section 662 of the Act must—

(a) *Training.* Receive the training at the educational institution or agency designated in the scholarship;

(b) *Educational allowances.* Not accept payment of educational allowances from any other entity if that allowance conflicts with the scholar's obligation under section 662 of the Act and this part;

(c) *Satisfactory progress.* Maintain satisfactory progress toward the degree, certificate, endorsement, or license as determined by the grantee;

(d) *Service obligation.* Upon exiting the training program under paragraph (a) of this section, subsequently maintain employment—

- (1) On a full-time or full-time equivalent basis; and
- (2) For a period of at least two years for every academic year for which assistance was received;

(e) *Eligible employment.* In order to meet the requirements of paragraph (d) of this section for any project funded under section 662 of the Act, be employed in a position in which—

(1) At least 51 percent of the infants, toddlers, and children to whom the individual provides services are receiving special education, related services, or early intervention services from the individual;

(2) The individual spends at least 51 percent of his or her time providing special education, related services, or early intervention services to infants, toddlers, and children with disabilities; or

(3) If the position involves supervision (including in the capacity of a principal), teaching at the postsecondary level, research, policy, technical assistance, program development, or administration, the individual spends at least 51 percent of his or her time performing work related to the training for which a scholarship was received under section 662 of the Act.

(f) *Time period.* Meet the service obligation under paragraph (d) of this section as follows:

- (1) A scholar must complete the service obligation within the period ending not more than the sum of the number of years required in paragraph (d)(2) of this section, as appropriate, plus five additional years, from the date the scholar completes the training for which the scholarship assistance was awarded.

(2) A scholar may begin eligible employment subsequent to the completion of one academic year of the training for which the scholarship assistance was received that otherwise meets the requirements of paragraph (1);

(g) *Part-time scholars.* If the scholar is pursuing coursework on a part-time basis, meet the service obligation in this section based on the accumulated academic years of training for which the scholarship is received;

(h) *Information upon exit.* Provide the grantee all requested information necessary for the grantee to meet the exit certification requirements under § 304.23(c);

(i) *Information after exit.* Within 60 days after exiting the program, and as necessary thereafter for any changes, provide the Department, via U.S. mail, all information that the Secretary needs to monitor the scholar's service obligation under this section, including social security number, address, employment setting, and employment status;

(j) *Repayment.* If not fulfilling the requirements in this section, subject to the provisions in § 304.31 regarding an exception or deferral, repay any scholarship received, plus interest, in an amount proportional to the service obligation not completed as follows:

(1) The Secretary charges the scholar interest on the unpaid balance owed in accordance with the Debt Collection Act of 1982, as amended, 31 U.S.C. 3717.

(2)(i) Interest on the unpaid balance accrues from the date the scholar is

determined to have entered repayment status under paragraph (4) of this section.

(ii) Any accrued interest is capitalized at the time the scholar's repayment schedule is established.

(iii) No interest is charged for the period of time during which repayment has been deferred under § 304.31.

(3) Under the authority of the Debt Collection Act of 1982, as amended, the Secretary may impose reasonable collection costs.

(4) A scholar enters repayment status on the first day of the first calendar month after the earliest of the following dates, as applicable:

(i) The date the scholar informs the grantee or the Secretary that the scholar does not plan to fulfill the service obligation under the agreement.

(ii) Any date when the scholar's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required in § 304.30(f).

(iii) Any date on which the scholar discontinues enrollment in the course of study under § 304.30(a).

(5) The scholar must make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary.

(6) Any amount of the scholarship that has not been repaid pursuant to paragraphs (j)(1) through (j)(5) of this section will constitute a debt owed to the United States that may be collected

by the Secretary in accordance with 34 CFR part 30.

(Approved by the Office of Management and Budget under control number 1820-0622)

(Authority: 20 U.S.C. 1462(h))

§ 304.31 Requirements for obtaining an exception or deferral to performance or repayment under an agreement.

(a) Based upon sufficient evidence to substantiate the grounds, the Secretary may grant an exception to the repayment requirement in § 304.30(j), in whole or part, if the scholar—

(1) Is unable to continue the course of study in § 304.30 or perform the service obligation because of a permanent disability; or

(2) Has died.

(b) Based upon sufficient evidence to substantiate the grounds, the Secretary may grant a deferral of the repayment requirement in § 304.30(j) during the time the scholar—

(1) Is engaging in a full-time course of study at an institution of higher education;

(2) Is serving on active duty as a member of the armed services of the United States;

(3) Is serving as a volunteer under the Peace Corps Act; or

(4) Is serving as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973.

(Authority: 20 U.S.C. 1462(h))

[FR Doc. 06-5111 Filed 6-2-06; 8:45 am]

BILLING CODE 4000-01-P

**FREQUENTLY ASKED QUESTIONS
SERVICE OBLIGATION AND REPAYMENT REQUIREMENTS**

FOR GRANTS AWARDED IN FISCAL YEAR 2006 AND ANY YEAR THEREAFTER

**Regarding the Final Regulations Implementing 662(h) of the Individuals with Disabilities
Education Act**

Three Sets of Service Obligation Rules Apply to Grants Awarded in Different Years:

- 1) For grants awarded in fiscal year (FY) 2004, or earlier, the version of the regulations published on December 9, 1999 implementing section 673(h) of the Individuals with Disabilities Education Act (IDEA), (see 34 CFR part 304) that was in effect at that time apply, including the requirement that grantees track the service obligations of scholarship recipients;
- 2) For grants awarded in FY 2005, the "Additional Requirements" section of the Personnel Preparation To Improve Services and Results for Children With Disabilities--Combined Priority for Personnel Preparation and Preparation of Leadership Personnel notice (the "notice"), published in the Federal Register on March 25, 2005 apply, including the requirement that the Secretary track the service obligations of scholarship recipients;
- 3) **For grants awarded in FY 2006 and any year thereafter, the regulations published on June 5, 2006 implementing section 662(h) of IDEA (see 34 CFR part 304) apply, including the requirement that the Secretary track the service obligations of scholarship recipients.**

For any particular grant, the rules in effect in the year that the grant (not a specific scholarship) was initially awarded apply to all future years of the grant.

Introduction to FAQs Based on the 2006 Service Obligation Regulations

On June 5, 2006, the Secretary published final regulations implementing section 662(h) of the IDEA in the Federal Register (see 71 FR pp. 32395-32400). These regulations, which became effective July 5, 2006, are now codified as 34 CFR part 304. As a condition of participating in the Personnel Development to Improve Services and Results for Children with Disabilities Program, scholars and institutions are required to comply with the service obligation rules and requirements outlined in these regulations. These regulations also implement the new service obligation tracking requirements, which shift the burden for ensuring that scholars comply with their service obligation from grantees to the Secretary. While the U.S. Department of Education (ED) developed the following guidance document in response to questions frequently asked by grantees and scholars/obligees, it does not cover all aspects of the regulations and should not be used alone.

To implement the new service obligation tracking requirements, ED established the National Center on Service Obligations (NCSO). Beginning in 2009, NCSO will track the status of the service obligations of scholars who receive scholarships from grants awarded in FY 2005 or later. The regulations can be found on the NCSO Web site at: <http://www.serviceobligations.ed.gov>.

General Information

1. Who is required to perform the service obligation?

Individuals that receive scholarship assistance from projects funded under IDEA are required to complete a service obligation or repay all or part of the costs of such assistance. For each academic year scholars receive assistance they must maintain full-time employment for the equivalent of two years (see question 8), or repay the Federal government for the portion of assistance they received that has not been repaid through service (see question 18).

2. How is the term “academic year” defined for purposes of the service obligation work or repayment requirement?

Because there is a great deal of variation in how grantees and institutions of higher education (IHEs) utilize the term “academic year,” the definition of this term provided in section 304.3(a) of the regulations is only intended to establish general guidelines. As defined in the regulations, “academic year” means a full-time course of study taken for: (1) a period totaling at least 9 months; or (2) the equivalent of at least 2 semesters, 2 trimesters, or 3 quarters. It is up to each individual grantee to determine what constitutes a “full-time course of study” and what constitutes an “academic year” for their particular institution. The determination that individual grantees make must fall within the above-mentioned guidelines established in section 304.3(a) of the regulations. For part-time scholars, the definition of “academic year” should be based on the accumulation of part-time courses of study that are equivalent to the grantee’s academic year.

3. Does the work or repayment requirement apply to all categories of financial aid or scholarship assistance, or just certain kinds of financial aid or scholarship assistance?

The requirement only applies to IDEA scholarship assistance that is provided through a grant to an institution of higher education (IHE) under section 662 of IDEA, and includes all disbursements or credits intended to cover the cost of attendance, including tuition and fees allowances for books, supplies, transportation, miscellaneous personal expenses, and allowances for room and board, stipends, and travel in conjunction with training assignments. The scholar’s service obligation is based on the period for which the individual received financial assistance rather than on the amount of the assistance.

4. If a student receives financial assistance under the grant for work performed as a graduate assistant, does the student have a service obligation requirement?

No. Any student whose financial assistance under the grant is based on the condition that the student work for the grantee is not subject to the service obligation requirement because such assistance is not “scholarship” assistance. Grantees who propose to use grant funds to pay graduate assistants to assist in facilitating or administering projects must classify those funds as personnel or other non-scholarship costs. Any remuneration paid to graduate assistants cannot be used to meet the applicable percentage of grant funds that must be used to pay for scholarships.

5. When a scholar receives partial funding, what are the work or repayment requirements?

The service obligation for individual scholars is calculated based solely on the number of academic years of training for which the scholar received scholarship assistance. The amount of financial assistance disbursed, whether such financial assistance is used to cover part or all of a student’s costs incurred during an academic year, has no effect on an individual scholar’s employment commitments.

Service Obligation

6. How do scholars fulfill their service obligation?

An individual providing direct services to children with disabilities must be employed in a position in which at least 51 percent of the infants, toddlers, and children to whom the individual provides services are receiving special education, related services, or early intervention services from the individual; OR the individual must spend at least 51 percent of his or her time providing special education, related services, or early intervention services to infants, toddlers, and children with disabilities.

If the position involves supervision (including in the capacity of a principal), teaching at the postsecondary level, research, policy, technical assistance, program development, or administration, the individual must be employed in a position in which at least 51 percent of his or her time is spent performing work related to the training for which a scholarship was received under section 662 of the Act.

7. How does the Department define research for purposes of the service obligation?

Any definition of research that is current and acceptable in the field may be used, such as the definitions of “applied research” and “basic research” in Section 102 (2) and (3) of the Education Sciences Reform Act (ESRA). In this Act, the term “applied research” means research:

- (a) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and
- (b) that is specifically directed to the advancement of practice in the field of education.

Likewise, the term “basic research” means research:

- (a) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and
- (b) for the advancement of knowledge in the field of education.

8. How is the length of the service obligation calculated?

The length of the service obligation is the full-time equivalent of 2 years for each academic year of scholarship assistance provided. (See question 2 for definition of academic year). If a scholar receives scholarship assistance for a portion of an academic year, then his or her service obligation will be calculated proportionally. For example, if a scholar receives assistance for three semesters at a grantee institution that considers an academic year to be two semesters, then the scholar’s service obligation is three years. The service obligation is based upon the “accumulated academic years” of training for which the scholar received assistance, not the amount of time the scholar spends in the program.

9. What is the minimum amount of academic training a scholar must complete before he or she may start to fulfill the service obligation through employment?

Except as follows, individual scholars must complete at least one-full academic year of training (or the full-time equivalent of one-full academic year if the scholar is part-time) before he or she may begin to fulfill the service obligation through employment. Therefore, any individual who fails to complete at least one full-time academic year of training will not be eligible to fulfill his or her service obligation requirement through employment, but will instead have to repay the entire amount of scholarship assistance received. However, it is worth noting that scholars who complete at least one full academic year of training (or the full-time equivalency of one year if the scholar is part-time) but who fail to complete a program or obtain full certification in their State will not necessarily be considered qualified to fill available special education, related service, or early intervention jobs that meet the requirements in section 304.30(e).

The primary exception to this rule is when the full-time course of study in which the scholar is enrolled is designed to last less than one full academic year. For example, courses leading to various certifications for special education teachers who are already employed on a full-time or part-time basis, and are currently working in the classroom, are typically designed to last less than one full academic year. In such cases, if the scholar completes the required program, the scholar is eligible to fulfill his or her service obligation requirement. The length of the scholar’s service obligation will be calculated based on the portion of the academic year to which the full-time course of study was equivalent. For calculation purposes, see Question 8.

10. If a scholar is dismissed or drops out of a program for an academic or non-academic reason, will he or she be required to fulfill the employment or repayment requirement?

Yes. The regulations apply to scholars who are dismissed or drop out of a program in the same manner that they apply to other scholarship recipients (See question 9).

11. When does the service obligation begin?

Unless there is a basis for a deferral or an exception (See questions 20-22), the service obligation begins immediately upon exiting the program.

12. How long do scholars/obligees have to complete their service obligations?

The period of time within which any individual who owes a service obligation (an obligee) must fulfill his or her obligation is calculated by determining the sum of the number of years of service owed plus a grace period of five additional years.

13. What is full-time employment?

Full-time employment means a full-time position, as defined by the individual's employer or by the agencies served by the individual.

14. Must obligees work on a full-time basis to satisfy their obligations?

No. Obligees may fulfill the obligation through full- or part-time employment. If an obligee works part-time, he or she still must work the full-time equivalent of two years for each academic year for which assistance was received. Further, obligees who work on a part-time basis must also fulfill the obligation within the required period which is calculated by determining the sum of the number of years of service owed plus five additional years.

15. Can a scholar begin working to satisfy the service obligation while still receiving the academic training for which the scholarship was awarded?

Employment that meets the regulatory requirements and is performed by a scholar subsequent to the completion of one full-time academic year of training (or full-time equivalent if the student is part-time) may be used to meet, in part, the scholar's service obligation.

16. Can the service obligation be satisfied by working with children with disabilities in a country outside of the United States, its territories and the Freely Associated States?

No, unless the employment in question takes place in a Department of Defense school, any service obligation to be fulfilled by working directly with children with disabilities must occur within a school that is covered by IDEA. IDEA only applies to State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) that receive funds under IDEA. IDEA does not have extra-territorial effect because schools outside the US, its territories, and

the Freely Associated States (i.e., American Samoa, Guam, Puerto Rico, the US Virgin Islands, and the Commonwealth of the Northern Marianas, Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau) do not qualify as SEAs or LEAs and may not receive IDEA funds.

17. What is the legal basis for the U.S. Department of Education to require Institutions of Higher Education to provide social security numbers to the National Center on Service Obligations (NCSO) and contractor, Optimal Solutions Group?

In order to ensure that scholars/obligees comply with their service obligation (See section 662(h)(3)(A) of IDEA), the U.S. Department of Education (ED) requires institutions of higher education (IHEs) to provide to the National Center on Service Obligations (NCSO) the social security numbers (SSNs) of students who receive Office of Special Education Programs (OSEP) Personnel Development Program scholarships. This is authorized under 34 CFR § 99.31(a)(4)(i), which states that an IHE may disclose personally identifiable information from records of a student without the student's consent if the disclosure is in connection with financial aid of the student and is necessary to "[e]nforce the terms and conditions of the aid." Given that the funding provided to scholars/obligees in the Personnel Development Program by their IHEs is considered financial assistance, and the NCSO through ED is responsible for tracking the service obligation requirement and/or repayment of that financial assistance, this provision authorizes IHEs to provide the SSNs of scholars/obligees to NCSO.

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Repayment Requirements

18. What are the consequences of an obligee's failure to satisfy the service obligation?

According to the terms and conditions of the scholar's written agreement with the grantee, he or she must repay the amount of scholarship assistance not satisfied through employment. Also, the obligee will be charged interest on the unpaid balance of the scholarship owed; accruing from the date he or she is determined to have entered repayment status. The Secretary of Education may also impose reasonable collection costs in accordance with 31 U.S.C. 3717.

19. When does an obligee enter repayment status?

Any service obligee who fails to meet the service obligation through eligible employment enters repayment status on the first day of the first calendar month after the earliest of the following dates:

- (1) the date the obligee informs the grantee or the Secretary that he or she does not plan to fulfill the service obligation under the agreement;
- (2) the date the obligee's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required by section 304.30(f); or

- (3) the date on which the scholar discontinues enrollment in the course of study prior to finishing at least one year.

If the NCSO does not receive regular employment status reports, obligees will be referred to ED for repayment.

20. On what basis may the Secretary grant a deferral or an exception?

The Secretary may grant a deferral or an exception to the work or repayment requirements upon request, if a scholar or an obligee can provide sufficient evidence to substantiate eligibility for a deferral or exception. The circumstances under which deferrals and exemptions may be granted are provided in Questions 21 and 22.

21. Under what circumstances may repayment of a scholarship be deferred?

The Secretary may grant a deferral for repayment of a scholarship under any circumstance in which a scholar or an obligee:

- (1) is engaging in a full-time course of study at an institution of higher education;
- (2) is serving on active duty as a member of the armed services of the United States;
- (3) is serving as a volunteer under the Peace Corps Act; or
- (4) is serving as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973.

22. Under what circumstances may an obligee receive an exception to the repayment requirement?

The Secretary may grant an exception to the repayment requirements in whole or part, if a scholar or an obligee:

- (1) is unable to continue the course of study or perform the service obligation because of a permanent disability; or
- (2) has died.

Special Circumstances

23. How are early intervention personnel affected by the service obligation requirements?

Scholars who receive training in the area of early intervention have the same obligation as other scholars who receive training assistance under an IDEA training grant. However, if the State has elected to serve at-risk infants and toddlers and their families under Part C of IDEA, the early intervention services performed may include services to infants and toddlers who are at risk for experiencing developmental delays and their families, as well as infants and toddlers with identified disabilities and their families.

24. If a general education teacher or paraprofessional receives funding from a training grant, are they affected by the service obligation requirement?

Yes. General education teachers and paraprofessionals, who receive funding from a training grant, like all other IDEA-funded scholars, must subsequently work in the special education, related service, or early intervention field consistent with the requirements of the regulations, or repay the scholarship. Neither the statute nor the regulations provide an exception to the service obligation for general education teachers, principals, and paraprofessionals.

25. Will any remaining service obligation be waived for obligees who pursue a doctoral level degree after completing a Master's level program for which they received a scholarship?

No. Obligees may fulfill the service obligation accrued during their Master's level program in any of the ways described in Question 6.

26. Can a scholar who was supported at the Master's level by an IDEA-funded grant teach in an undergraduate or Master's program while completing a doctorate?

It depends. Scholarship recipients must fulfill a service obligation through employment that is sufficiently related to the training for which assistance was provided. Thus, if the scholarship was for a program to train personnel for teaching at the undergraduate or Master's level, a scholar could teach while getting a doctorate and satisfy the service obligation for the Master's program. However, if the scholarship was for a program to provide direct services, the scholar would have to provide special education or related services to children with disabilities or early intervention services to infants and toddlers and their families in order to meet the service obligation requirements of the regulations (See questions 6 and 15).

Operational

27. What is a grantee's obligation with respect to scholar repayment agreements?

An IHE receiving a training grant under IDEA must ensure that any scholar receiving scholarship assistance from the grant signs and dates a "repayment" agreement prior to the initial disbursement of any scholarship funds on his or her behalf, including the payment or crediting of tuition. The institution must fully disclose to the IDEA scholar the terms and conditions of the repayment requirement in the application for an IDEA scholarship. The written agreement must contain the terms and conditions required by the regulations.

28. Does research performed overseas qualify as eligible employment and will it fulfill my service obligation?

It depends. Research performed overseas may qualify as eligible employment for the fulfillment of the service obligation. Such research must meet any current and acceptable

definition of research (see FAQ question 7 above) as well as the regulatory standard that the individual spends, “at least 51 percent of his or her time performing work related to the training for which a scholarship was received...” (Section 304.30(e)(3) of the 2006 Regulations, Section F(e)(5) of the 2005 Requirements).

29. What is the "exit certification" that the grantee must receive from the scholar when a scholar completes his or her program?

The grantee must provide notification (certification) to the scholar at the time of exit from the program that includes all of the obligee’s obligations under section 304.30. Upon receipt of such notification, the obligee must also certify, in writing, that the information is correct (see section 304.23(c)). The required certification must identify—

- (1) the number of years the individual obligee must to work to satisfy the service obligation requirements of the regulations;
- (2) the total amount of scholarship assistance received that is subject to the work-or repayment requirements;
- (3) the time period during which the obligee must satisfy the service obligation;
- (4) all other obligations of the obligee, as applicable.

Upon receipt of such written certification from individual obligees, the grantee administering the grant through which individual scholarships have been provided must enter in the NCSO web-based Service Obligation Tracking System (SOTS) the information contained in items 1 through 4 above, each obligee’s name, address, e-mail address, social security number, and complete written certification as well as any other information that is necessary to carry out the Secretary’s functions under section 662 of IDEA. If the grantee is aware that any scholar has chosen not to fulfill or will be unable to fulfill the obligation under section 304.30(d) of the regulations, the grantee must enter the relevant information in the SOTS when the scholar exits the program.

30. Which entity is responsible for receiving and maintaining information and tracking the service obligation of the scholars/obligees?

ED is responsible for tracking scholars who exit programs supported by grants initially awarded beginning in FY 2005. ED has contracted with Optimal Solutions Group, LLC (Optimal) to establish the NCSO to track and verify the service obligation fulfillment of all scholars/obligees.

31. To whom must the obligee report his or her whereabouts, employment settings, or employment status?

Once a record is submitted for an exited or completed scholar/obligee, the scholar/obligee is given access to the database for input of employment information. Once an obligee has exited the program, he or she must return the signed exit certification to the grantee (See question 29). Obligees are required to provide all information that the Secretary needs to monitor their service obligation within 60 days after exiting the program, and as necessary thereafter for any changes (including any change related to an obligee choosing not to fulfill

or being unable to fulfill the obligation). This includes: social security number, address, employment setting, and employment status. Any changes to the information above must be submitted on an annual basis.

32. How will the service obligations of obligees be monitored?

NCSO was established to monitor the fulfillment of service obligations required of students who received scholarship assistance from federally funded university projects through the Office of Special Education Programs Personnel Development Program. NCSO tracks the scholarships funded by grants awarded to IHEs in federal fiscal year 2005 and any year thereafter. NCSO is available to answer questions and provide technical support for the SOTS.

33. Who collects the funds repaid by an obligee if he or she does not fulfill the service obligation through eligible employment?

If an obligee does not comply with the service obligation requirements by fulfilling the terms of his or her obligation, ED is responsible for collecting any funds to be repaid (scholarship, interest, and collection costs) according to a schedule established by the Secretary. Interest is charged in accordance with the Debt Collection Act of 1982, as amended 31 U.S.C. 3717.

NCSO CONTACT INFORMATION

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The NCSO Web site and the Service Obligation Tracking System are located at <http://serviceobligations.ed.gov>