

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 544****[BOP-1019-P]****RIN 1120-AA25****Postsecondary Education Programs****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on postsecondary education programs to exclude courses which are offered as part of an occupational education program. Courses which are offered as part of an occupational education program are to be covered by separate Bureau regulations. Consequently, the inmate is to be responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. This amendment is intended to simplify the organization of the Bureau's regulations and to conform with the usual community standards of government-funded educational opportunities available to the general public.

DATES: Comments due by September 15, 2000.

ADDRESSES: Rules Unit, 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 proposing to amend its regulations on postsecondary education programs (28 CFR part 544, subpart C). Current regulations on this subject were published in the **Federal Register** on May 7, 1997 (62 FR 25100).

Why Is the Bureau Revising Its Regulations on Postsecondary Education Programs?

The current regulations on postsecondary education programs generally require the inmate to pay for tuition. If resources allow, however, the institution may pay the tuition if all of the following apply: The inmate is unable to pay; the course is directly related to preparation for a specific occupation/vocation; and the course is part of a one year certificate or a two year Associate Arts degree program. The Bureau is reorganizing and revising its

regulations in order to cover occupational education courses separately (see the Bureau's proposed rule on Occupational Education Programs published elsewhere in today's **Federal Register**). Consequently, there is no need to make any determinations under the postsecondary education program as to the responsibility for payment. The inmate is to be responsible for postsecondary education tuition costs either through personal funds, community resources, or available scholarships. This conforms to the usual community standards for government-funded educational opportunities available to the general public. Under the usual community standards, the local government funds public elementary and secondary school systems. The individual is responsible for paying tuition for postsecondary education. In revising the regulations on postsecondary education programs, the Bureau is also eliminating unnecessary definitions and is restating eligibility criteria in plainer language.

Who Is Affected by the Changes Being Made to the Regulations?

The regulations are applicable to all Federal inmates. The actual effect of the changes on inmates is likely to be minimal. Postsecondary education courses pertinent to the vocational education needs of inmates can be funded by the institution when offered through a Bureau-approved occupational education program. An inmate who has the financial resources to pay for tuition costs may continue to take postsecondary courses provided that the courses are appropriate for the institution's need for discipline, security, and good order. Most postsecondary education courses do not pose problems to institution discipline, security, and good order. However, a course in waste treatment management, for example, which requires the unsupervised use of particular tools may pose problems for institution security. Such a course would likely not be approved.

The combined effect of the proposed revisions to the Bureau's regulations on Postsecondary Education and Occupational Education Programs is to ensure that Bureau funding of occupational education courses occurs as part of a comprehensive occupational education program designed to address the general occupational education needs of the greatest number of inmates as is practicable.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General

Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: 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, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic at the address listed above.

List of Subjects in 28 CFR Part 544

Prisoners.

Kathleen Hawk Sawyer,

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(o), part 544 in subchapter C of 28 CFR, chapter V is proposed to be 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 is revised to read as follows:

Subpart C—Postsecondary Education Programs for Inmates

Sec.

544.20 Purpose and scope.

544.21 Procedures.

Subpart C—Postsecondary Education Programs for Inmates

§ 544.20 Purpose and scope.

The Bureau of Prisons offers inmates the opportunity under its postsecondary education program to participate in postsecondary education courses (courses for college credit other than those courses which pertain to occupational education programs) which have been determined to be

appropriate in light of the institution's need for discipline, security, and good order. Participation in postsecondary education courses which are part of occupational education programs is governed by the provisions of the Bureau's occupational education program (see subpart F of this part).

§ 544.21 Procedures.

(a) The Warden or designee must appoint a postsecondary education coordinator (ordinarily an education staff member) for the institution. The postsecondary education coordinator is responsible for coordinating the institution's postsecondary education program.

(b) An inmate who wishes to participate in a postsecondary education course must apply through the postsecondary education coordinator. If the postsecondary education coordinator determines that the course is appropriate in light of the institution's need for discipline, security, and good order, the inmate may enroll provided that:

(1) The inmate meets eligibility requirements for the course which have been set by the course provider, and

(2) The inmate is responsible for payment of any tuition either through personal funds, community resources, or scholarships available to the inmate.

(3) The unit team determines that the course is appropriate for the inmate's apparent needs.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP–1096–P]

RIN 1120–AA92

Occupational Education Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on occupational education programs in order to exclude, with certain exceptions, inmates currently under an order of deportation, exclusion, or removal, and to remove obsolete or redundant provisions. This amendment is intended to help ensure that available educational opportunities for occupational training ordinarily will be allocated to inmates who will be returning to the community within,

rather than outside, the United States upon release.

DATES: Comments due by September 15, 2000.

ADDRESSES: Rules Unit, 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 proposing to amend its regulations on occupational education programs (28 CFR part 544, subpart F). Current regulations on this subject were published in the **Federal Register** on March 29, 1988 (53 FR 10204).

The Bureau's occupational education programs are designed to enhance post-release employment opportunities for inmates with occupational training needs. The Bureau is revising its regulations on occupational education programs in order to exclude, with certain exceptions, inmates currently under an order of deportation, exclusion, or removal, and to remove obsolete or redundant provisions. An inmate or detainee who is currently under an order of deportation, exclusion, or removal may be considered for placement in an occupational education program if the Attorney General has determined that the inmate or detainee cannot be removed from the United States because the designated country of removal will not accept his/her return. Under internal agency procedures, the Immigration and Naturalization Service is responsible for informing the Bureau when an inmate/detainee's designated country of removal will not accept his/her return. In restricting other inmates under an order of deportation, removal, or exclusion from consideration, the Bureau intends to help ensure that available educational opportunities for occupational training ordinarily will be allocated to inmates who will be returning to the community within, rather than outside, the United States upon release.

In revising the regulations, the Bureau has included procedures for making application similar to revised procedures for postsecondary education programs (see the Bureau's proposed rule published elsewhere in today's **Federal Register**) and has reorganized the provisions in order to remove obsolete or redundant provisions and to improve general clarity.

Interested persons may participate in this proposed rulemaking by submitting