

DEPARTMENT OF EDUCATION**National Center or Centers for Research in Vocational Education****AGENCY:** Department of Education**ACTION:** Notice of final interpretation and waivers.

SUMMARY: The Secretary of Education (Secretary) announces an interpretation of the statute authorizing the National Center or Centers for Research in Vocational Education (National Center), section 404, Part A, Title IV of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Act). Under the interpretation, the Secretary has the authority to extend the five-year project period for the current National Center at the University of California at Berkeley. In addition, for the National Center at Berkeley, the Secretary waives the regulations in 34 CFR 75.250 of the Education Department General Administrative Regulations (EDGAR), which provide that the Secretary may approve a project period of up to 60 months; the regulations in 34 CFR 75.261(c)(2) and (3) of EDGAR, which provide for circumstances under which the Secretary may extend the project period of an award; and the regulations in 34 CFR 413.4(a), which provide that the Secretary designates a National Center or Centers once every five years.

EFFECTIVE DATE: This notice becomes effective on December 12, 1997.

FOR FURTHER INFORMATION CONTACT: Jackie Friederich or Pariece Wilkins, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, Room 4526), 600 Independence Avenue, SW, Washington, DC 20202-7242. Telephone (202) 205-9071. Internet address: Jackie_friederich@ed.gov and Pariece_wilkins@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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SUPPLEMENTARY INFORMATION: In December 1992, after a competition conducted under the authority of section 404 of the Perkins Act and the implementing regulations at 34 CFR Part 413, the Secretary awarded grants to the University of California at Berkeley to

operate the current National Center for Research in Vocational Education. At that time, the Secretary approved a five-year project period. The National Center has received annual grant awards since December 1992 for the purpose of conducting applied research and development activities in vocational education as well as annual awards for the purpose of conducting dissemination and training activities in vocational education. Section 3 of the Act, as amended by Public Law 101-392, authorized appropriations for Titles I through IV of the Act (including appropriations for the National Center) for Fiscal Years (FYs) 1991, 1992, 1993, 1994, and 1995. Calendar year 1997 will be the fifth year of the project period for which the University of California at Berkeley was selected and awarded grants in 1992. The funds awarded to the National Center in December of 1992 were utilized by the University of California at Berkeley to carry out activities in 1993. Since section 3 of the Act only authorized appropriations under Perkins Act programs through FY 1995, FY 1996 Perkins Act programs were extended under the authority of section 422 of the General Education Provisions Act (Pub. L. 103-382). In FY 1997, Perkins Act programs that were funded, including the National Center program, operated by authority of annual congressional appropriations.

On June 20, 1997, the Secretary published a notice of proposed interpretation and proposed waiver in the **Federal Register** (62 FR 33726). Except for technical revisions and the waiver of 34 CFR 75.261(c)(2) and (3), there are no differences between the proposed and final interpretation and waivers.

Analysis of Comments*Interpretation*

In response to the Secretary's invitation, 17 parties submitted comments on the notice of proposed interpretation of section 404 of the Perkins Act and on the proposed waivers of §§ 75.250 and 413.4(a).

Comments: All seventeen commenters supported the continuation of the National Center at the University of California at Berkeley. Fourteen of these commenters thought the National Center should continue because they either benefited from or were pleased with the National Center's work. Five commenters agreed with the Department that the National Center should be continued because of uncertainties regarding reauthorization and future funding for the National Center.

Discussion: The Secretary is also pleased with work performed by the National Center at the University of California at Berkeley. The National Center has provided valuable research in tech-prep, integration of academic and vocational education, and both performance and skills standards. Moreover, the Secretary believes Berkeley is likely to continue to operate a National Center that addresses the needs of the vocational education community.

The uncertainties regarding reauthorization and future funding for the National Center, which prompted the Department to propose the notice of interpretation and waivers, remain. The Secretary continues to want to avoid holding a grant competition for a new National Center in an atmosphere of uncertainty in which potential applicants would not have critical information. The Secretary is, therefore, issuing this notice of interpretation that will enable the Department to continue the existing National Center beyond the 60-month project period, with new work beginning under the grants in 1998.

Change: None.

Comment: One commenter strongly encouraged the National Center, during its one-year extension, to provide research that supports a strengthened State leadership role for vocational technical education and to conduct research that will assist States in critical issues such as vocational technical education's role in welfare reform and vocational teacher education.

Discussion: The Secretary believes that one of the most important activities of the National Center is applied research and dissemination that help to shape the future of vocational education and that are especially useful to educators in strengthening vocational education programs. In this regard, the Secretary plans for the National Center to enhance its dissemination activities and efforts to assist States and localities to address their needs. During the 1998 project period the National Center will provide States with materials and services in key areas of need, which may include use performance data, professional development, welfare reform, and curriculum integration, and will provide technical assistance in the use of the National Center's research findings through regional workshops.

Change: None.

Waiver

Comment: None.

Discussion: In order to extend the five-year project period for the current National Center, the Secretary has waived 34 CFR 75.250, which provides

that the Secretary may approve a project period of up to 60 months, and § 413.4(a), which provides that the Secretary designates a National Center or Centers once every five years. Consistent with these two waivers, the Secretary has determined that he will waive 34 CFR 75.261(c)(2) and (3) so as to authorize the extension to Berkeley even though the extension will involve the obligation of new Federal monies and the performance of new work.

Change: This notice now includes a waiver of 34 CFR 75.261(c)(2) and (3).

Interpretation and Waivers

The authorization of appropriations for the Perkins Act has expired and the National Center is being funded and administered on the basis of year-to-year congressional appropriations. There is no authorization of appropriation for the years that would be covered by new five-year National Center grants, were there to be a competition. The National Center authority in section 404 of the Perkins Act requires that the Secretary operate a National Center or Centers for a period of five years. December 31, 1997 will be the end of the five-year period for the current National Center and, therefore, the statutory requirement will have been met. The Secretary does not view the statute as requiring a new competition for new five-year grants especially since there are no appropriations authorized. Accordingly, the Secretary interprets the statute as authorizing him to extend the current National Center.

In view of the uncertainties presented by the absence of appropriation authority, the Secretary seeks to avoid a situation where the current National Center ceases operations and a new National Center starts up operations the next year, very possibly resulting in a difficult transition period and a truncated project period during which essential research, development, dissemination, and training activities will not be undertaken, causing a potentially serious disruption of services to the vocational education community. The Secretary also does not wish to place potential applicants in the position of expending resources applying for Federal funds without knowing the full amount of funds for which they are applying or the period of years for which they are seeking to be funded. Also, the Secretary is generally reluctant to announce a competition whereby eligible entities would be expected to proceed through the application preparation and submission processes while lacking critical information and does not think that it would be in the public interest to do so.

The Secretary, therefore, adopts the interpretation and waives certain regulations for the National Center at Berkeley in order to provide an appropriate and cost-effective way of implementing existing legislation while serving the interest of the education community.

The Secretary adopts the interpretation of section 404 of the Perkins Act and waives §§ 75.250 and 75.261(c)(2) and (3) of EDGAR and § 413.4(a) of the program regulations as they apply to the National Center at Berkeley. This interpretation and these waivers authorize the Secretary to extend the grants to the University of California at Berkeley beyond the 60-month period provided for in § 75.250, with new work beginning under the grants in 1998. The Secretary will extend the grants if it is determined, based on information available, that Berkeley is making substantial progress and will likely continue to make substantial progress in performing all required activities.

Assuming that Berkeley is making substantial progress in performing the required activities, the Secretary will extend the grants to Berkeley for one additional year (through December, 1998), by awarding two grants totaling \$4.5 million under the authority of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Public Law 104-208. However, additional extensions could be made if Congress makes further appropriations without underlying authorizing legislation. During the period of any extension, the Secretary will review the activities of the National Center to ensure that Berkeley continues to make substantial progress in performing all required activities.

The Secretary does not interpret the waivers as exempting the grantee from the account closing provisions of Pub. L. 101-510 or as extending the availability of FY 1992, 1993, 1994, 1995, and 1996 funds awarded to the grantee. As a result of Pub. L. 101-510, appropriations available for a limited period may be used for payments of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the Treasury Department and is unavailable for restoration for any purpose. Therefore, FY 1993 funds awarded to Berkeley for the National Center will not be available for payments on obligations after September 30, 1998. If the grants are extended for additional years, funds

will be available for payments on valid obligations for only five years after the expiration of their period of availability. For example:

(a) FY 1994 funds [or appropriations] will not be available for payment of obligations after September 30, 1999.

(b) FY 1995 funds [or appropriations] will not be available for payment of obligations after September 30, 2000.

During the period of the extension of the National Center, the Secretary will give special emphasis to several of the mandatory statutory and regulatory activities the National Center is required to carry out, which appear to be of particular concern to the education community, in the following areas:

(a) Integration of academic and vocational education.

(b) Accountability in vocational education, including the use of performance standards for program improvement.

(c) Education of students in all aspects of an industry.

(d) Development of effective methods for promoting literacy and communication skills in students.

(e) Use of technology to enhance learning and support the transference of knowledge.

(f) Teacher and administrator training and leadership development.

(g) Articulation of secondary and postsecondary instruction with high quality work-based learning.

(h) A study on the research conducted on approaches that lead to effective articulation of the education-to-work transition.

(i) Dissemination of exemplary practices and materials, including curriculum and instructional materials.

(j) Development and utilization of a national level dissemination network, including the broad dissemination of the results of research and development conducted by the National Center.

(k) Development and publication of curriculum materials.

(l) Development of processes for the synthesis of research.

The activities of the National Center provide valuable support to the Department's new initiatives that are geared toward preparing students for high-skill jobs by providing them with the academic, technical, and related skills needed for the twenty-first century. These initiatives support the development of high levels of academic standards and occupational skills for all students by promoting education reform, improvements at the postsecondary level in the delivery of services to vocational education students and in teacher and administrator training and leadership

development, and the development of school-to-work systems. Through research and dissemination initiatives in areas such as the integration of academic and vocational education and the education of students in all aspects of an industry, new findings can be identified and disseminated in areas such as linking secondary and postsecondary learning, and the formation of effective partnerships among schools, employers, parents, and community and labor organizations that enhance school-based and work-based learning. Other possible research, development, and dissemination strategies that address these priorities could include the use of support services and supportive learning environments, the development and use of effective performance management systems for program improvement, and the integration of occupational skill standards and assessments with academic performance standards and assessments. Through the exploration, development, identification, and dissemination of these strategies, the work of the National Center will have a significant impact on education policy and practice which will benefit the collaborative education and training efforts of institutions, educators, businesses, and students.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedures Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the waiver of 34 CFR 75.261(c)(2) and (3) is a procedural change only and does not establish new substantive policy. Moreover, the waiver of 34 CFR 75.261(c)(2) and (3) is fully consistent with the Secretary's waiver of 34 CFR 75.250 and 413.4(a)—on which the Secretary sought public comment on June 20, 1997 (62 FR 33726)—in that 75.261(c)(2) and (3) provide for circumstances under which the Secretary may extend the project period of an award. Therefore, proposed rulemaking is not required under 5 U.S.C. 553(b)(A) and is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

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Note: The official version of this document is the document published in the **Federal Register**.

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Dated: October 4, 1997.

Christine D. Kulick,

Acting Assistant Secretary, Office of Vocational and Adult Education.

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