

CHAPTER 1

Eligible Agency Certifications and Assurances

Section 221 (1) requires the State to develop, submit, and implement the State plan, and Section 224 (b) (5) (6) and (8) require assurances specific to the State plan content.

Certifications

Education Department General Administrative Regulations
(34 CFR Part 76.104)

The Department of Public Instruction of the State of North Dakota hereby submits its one-year State plan to be effective until June 30, 2009. The eligible agency also assures that this plan, which serves as an agreement between state and federal Governments under the Adult Education and Family Literacy Act, will be administered in accordance with applicable federal laws and regulations, including the following certifications and assurances:

1. The plan is submitted by the State agency that is eligible to submit the plan.
2. The State agency has authority under State law to perform the functions of the State under the program.
3. The State legally may carry out each provision of the plan.
4. All provisions of the plan are consistent with State law.
5. A State officer, specified by title in the certification, has authority under State law to receive, hold, and disburse federal funds made available under the plan.
6. The State officer who submits the plan, specified by the title in the certification, has authority to submit the plan.
7. The agency that submits the plan has adopted or otherwise formally approved the plan.
8. The plan is the basis for State operation and administration of the program.

Assurances

Workforce Investment Act of 1998 (Public Law 105-220) Section 224 (b) (5), (6), and (8)

1. The eligible agency will award not less than one grant to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this subtitle for support services.
2. Funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle.
3. The eligible agency will expend the funds under this subtitle in a manner consistent with fiscal requirements in Section 241.

Section 241. Administrative Provisions

1. Supplement Not Supplant.
Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.
2. Maintenance of Effort
 - a. In general.
 - (1) Determination.
An eligible agency may receive funds under this subtitle for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student of the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.
 - (2) Proportionate reduction.
Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year, the Secretary
 - (a) shall determine the percentage decreases in such effort or in such expenditures;
and
 - (b) shall decrease the payment made under this subtitle for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

(3) Computation

In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(4) Decrease in federal support.

If the amount made available for adult education and literacy activities under this subtitle for a fiscal year is less than the amount made available for adult education and literacy activities under this subtitle for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(5) Waiver.

The Secretary may waive the requirements of this subsection for one fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

By: _____

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State Superintendent

_____ Date

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