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SUPPLEMENTARY INFORMATION:

Background

On January 8, 2002, the Demonstration Grants for Indian Children program and Professional Development program were revised and recodified as sections 7121 and 7122 of subpart 2 of part A of title VII of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Public Law 107-110, the No Child Left Behind Act of 2001. On July 22, 2002, the Secretary published in the **Federal Register** (67 FR 47695) a final rule with request for comment on these programs. No comments were received, and no substantive changes are made to these regulations.

These regulations incorporate the specific program requirements for both programs. They also include the Secretary's application requirements for the Professional Development program that must be met in order for applications to be considered for funding, and the requirements concerning the payback provisions applicable to that program. The Secretary is required, under Section 7122(h) of the ESEA, to establish regulations governing payback and reporting provisions for the Professional Development program.

Analysis of Comments and Changes

No comments were received in response to the Secretary's invitation to comment on the final rule that suggested changes or clarification of the content of these regulations. Consequently, the Secretary has determined that no substantive changes are necessary.

Executive Order 12866

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

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

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action,

we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. Section 437(d)(2) of the General Education Provisions Act (GEPA), however, exempts from this rulemaking requirement those rules where the Secretary determines it would cause extreme hardship to the beneficiaries of the program that would be affected by those rules. The Secretary, in accordance with section 437(d)(2) of GEPA, has decided to issue these rules without first publishing them for public comment in order to ensure timely and high quality grant awards.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

The small entities that are affected by these regulations are small local educational agencies (LEAs) receiving Federal funds under this program. However, the regulations will not have a significant economic impact on the small LEAs affected because the regulations do not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations impose minimal requirements to ensure the proper expenditure of program funds.

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. We display the valid OMB control number assigned to the collection of information in these final regulations at the end of the affected sections of the regulations.

Intergovernmental Review

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

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

Based on the response to the final regulations with invitation to comment and our own 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.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.299 Indian Education—Special Programs.)

List of Subjects in 34 CFR Part 263

Elementary and secondary education, Grant programs—education, Indians—education, Reporting and recordkeeping requirements, Scholarships and fellowships.

Dated: July 21, 2003.

Eugene W. Hickok,
Under Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary revises part 263 of title 34 of the Code of Federal Regulations to read as follows:

PART 263—INDIAN EDUCATION DISCRETIONARY GRANT PROGRAMS

Subpart A—Professional Development Program

Sec.

- 263.1 What is the Professional Development program?
- 263.2 Who is eligible to apply under the Professional Development program?
- 263.3 What definitions apply to the Professional Development program?
- 263.4 What training costs may a Professional Development program include?