

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.

List of Subjects in 28 CFR Part 544

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 544 as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

■ 1. Revise the authority citation for 28 CFR part 544 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Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Subpart F is revised to read as follows:

Subpart F—Occupational Education Programs

Sec.

544.50 Purpose and scope.

544.51 Procedures.

544.52 Levels of Occupational Education Programs.

Subpart F—Occupational Education Programs

§ 544.50 Purpose and scope.

The Bureau of Prisons offers eligible inmates the opportunity under its occupational education programs to participate in occupational education courses for the purpose of obtaining marketable skills designed to enhance post-release employment opportunities.

§ 544.51 Procedures.

(a) *Eligibility.* All inmates are eligible to participate in an institution's occupational education program. An eligible inmate must apply through the inmate's unit team for placement consideration. The unit team will determine whether the occupational education course is appropriate for the inmate's apparent needs.

(b) *Special considerations for inmates under orders of deportation, exclusion, or removal:* (1) Generally, inmates under orders of deportation, exclusion, or

removal may participate in an institution's occupational education program if Bureau resources permit after meeting the needs of other eligible inmates.

(2) Inmates under orders of deportation, exclusion, or removal who the Attorney General has determined cannot be removed from the United States because the designated country of removal will not accept the inmate's return are exempted from the limitation in paragraph (b)(1) of this section, and may participate in an institution's occupational education in the same manner as other eligible inmates.

§ 544.52 Levels of Occupational Education Programs.

Occupational education programs are offered at the certificate level and the classroom level. Each level may include the following types of training:

(a) *Exploratory Training.* Exploratory training is a study of occupations and industries for the purpose of providing the student with a general knowledge of the occupation and the world of work, rather than specific skill development.

(b) *Marketable Training.* Marketable training provides specific entry-level or advanced job skills. Marketable training may include "live work", that is, the training would result in a product or service produced by the inmate for actual use by the institution, FPI, another federal agency, or community service project.

(c) *Apprentice Training.* Apprentice training provides an inmate the opportunity to participate in training which prepares the inmate for employment in various trades through structured apprenticeship programs approved at the state and national levels by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

[BOP–1019–F]

RIN 1120–AA25

Postsecondary Education Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons (Bureau) finalizes, without change, a proposed rule it published on July 17, 2000, at 65 FR 44400 to exclude from

postsecondary education programs courses offered as part of an occupational education program. Occupational education programs are covered in separate Bureau regulations.

DATES: This rule is effective December 19, 2003.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: In this document, the Bureau amends its regulations on postsecondary education programs to exclude courses offered as part of an occupational education program, which we cover in separate Bureau regulations.

Under this final rule, the inmate is responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. We intend this amendment 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.

We published this rule change as a proposed rule on July 17, 2000 (65 FR 44400). We received two comments on the proposed rule.

First Public Comment

One commenter proposed that we include brief language in our rule to allow staff to use the postsecondary education programs as a sign of positive adjustment by an inmate, favorably affecting the custody score on our Custody Classification Form.

The Bureau uses the Custody Classification Form to accurately evaluate and classify an inmate so that we can give the inmate an appropriate security level. The Bureau must properly determine an inmate's security level to ensure the safety and security of the inmate and the institution.

The Custody Classification Form that the commenter refers to is made up of many factors that staff can use to evaluate the inmate. One of these factors is called "Responsibility Demonstrated." To illustrate an inmate's level of responsibility, we instruct our staff to consider the inmate's general demeanor as reflected in peer group associates, degree of program involvement, level of dependability, and nature of interaction with staff and other inmates.