

APPENDIX J - COMMON ASSURANCES FOR FEDERAL GRANT PROGRAMS

COMMON ASSURANCES

The Common Assurances listed below in items 1-21 apply to all programs administered by the U.S. Department of Education through the Office of Public Instruction, including all programs found in the following Acts:

- Adult Education and Literacy, 20 USCA Section 9201
- Carl D. Perkins Vocational and Technical Education Act, as amended, 20 USCA Section 2301
- ESEA Reauthorized by the No Child Left Behind Act of 2001, as amended, 20 USCA 6301 et seq
- Individuals with Disabilities Education Act (IDEA), Part B, 20 USCA Section 1400
- Unsafe School Choice Option, as amended, 20 USCA 7912
- Workforce Investment Act, as amended, 29 USCA Section 4959

Program-specific assurances, if applicable, are included in the grant applications for each program.

By accepting federal monies awarded by the Office of Public Instruction, the subgrantee agrees to comply with the following requirements:

General

1. That each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications. 20 USCA 7846 (a)(1)
2. That the applicant will adopt and use proper methods of administering each such program, including the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation. 20 USCA 7846 (a)(3)
3. No policy of the district prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools per guidance of the Secretary of the U.S. Department of Education. 20 USCA 7904
4. No school or district that has a designated open forum or a limited public forum denies equal access or a fair opportunity to meet with, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code, that wishes to conduct a meeting within that designated open forum or limited public forum including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 of the United States Code. 20 USCA 7905
5. None of the funds under ESEA will be used for schools to develop or distribute, or

operate programs or courses of instruction directed at youth that promotes or encourages sexual activity, distribute or aid in the distribution of obscene materials to minors on school grounds, provide sex education or HIV-prevention education unless that instruction is age appropriate and includes the health benefit of abstinence or to operate a program of contraceptive distribution in schools. 20 USCA 7906

6. Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act and except that a student or parent of a student may request that the information not be released without written parental consent, each school receiving assistance under ESEA shall provide, on a request made by military recruiters or an institution of higher education, access to secondary student names, addresses, and telephone listings. Each school shall provide military recruiters the same access to secondary students as is provided generally to postsecondary educational institutions or to prospective employers of those students. Each district shall notify parents of the option to not release student information without prior written parental consent and shall comply with any request to do so. 20 USCA 7908

7. Any student determined to be attending a "persistently dangerous school" as defined by the Office of Public Instruction or who becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of a public elementary or secondary school that the student attends, will be allowed to attend a safe public elementary or secondary school within the local school district. 20 USCA 7912

8. That no person shall permit smoking within any indoor facility (or portion of such facility) owned or leased or contracted for, and utilized by such person for the provision of routine or regular kindergarten, elementary or secondary education, library services, routine health care, day care, or early childhood development services. 20 USCA 7183

Funding, Fiscal Controls, Record Keeping, and Reports

9. That the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and the public agency, nonprofit private agency, institution or organization, or Indian tribe will administer such funds and property to the extent required by authorizing statutes. 20 USCA 7846 (a)(2)(A)(B)

10. That the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the state superintendent of public instruction and the secretary or other federal officials. 20 USCA 7846 (a)(4)

a) That expenditures of \$500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133 (OMB Circular A-133).

b) That federal awards are expended only for allowable activities and that the costs of goods and services charged to federal awards are allowable and in accordance with the applicable cost principles (20 USCA 3474; OMB Circular A-102).

c) That the draw down of federal cash is only for immediate needs (20 USCA 3474; OMB Circular A-102).

d) That proper records are maintained for equipment acquired with federal

awards, equipment is adequately safeguarded and maintained, disposition or encumbrance of any equipment or real property is in accordance with federal requirements, and the federal awarding agency is appropriately compensated for its share of any property sold or converted to non-federal use (20 USCA 3474; OMB Circular A-102).

e) That matching, level of effort, or earmarking requirements are met using only allowable funds or costs which are properly calculated and valued (20 USCA 3474; OMB Circular A-102).

f) That federal funds are used only during the authorized period of availability (20 USCA 3474; OMB Circular A-102; 20 USCA 782)

g) That procurement of goods and services are made in compliance with the provisions of the A-102 Common Rule or OMB Circular A-110, as applicable, and that no subaward, contract, or agreements for purchases of goods or services is made with any debarred or suspended party (20 USCA 3474; OMB Circular A-102).

h) That program income is correctly earned, recorded, and used in accordance with the program requirements (20 USCA 3474; OMB Circular A-102).

g) That reports of federal awards submitted to the pass-through entity include all activity of the reporting period, are supported by underlying accounting or performance records, and are fairly presented in accordance with program requirements (20 USCA 3474; OMB Circular A-102).

i) That required audits are obtained and appropriate corrective action is taken on audit findings (20 USCA 3474; OMB Circulars A-102, & A-133).

11. That the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, federal funds paid to such applicant under each such program 20 USCA 7846(a)(5) in accordance with state school accounting and reporting policies as applicable (School Accounting Manual).

12. That the local education agency will make reports to the state superintendent of public instruction and to the secretary as may reasonably be necessary to enable the state education agency and the secretary to perform their duties and that the local education agency will maintain such records for three years and the current year or as required in school districts in the School District Records Schedule (Schedule No. 7) published by the Montana Department of Administration and provide access to those records, as the superintendent or secretary deem necessary to perform their duties 20 USCA 7846 (a)(6).

13. That in the case of any project involving construction, the project is not inconsistent with overall state plans for the construction of school facilities, and in developing plans for construction due consideration will be given to excellence of architecture and design and to compliance with Appendix A of Part 36 of Title 28, Code of Federal Regulations (Americans With Disabilities Accessibility Guidelines for Buildings and Facilities) or Appendix A of Part 101-19.6 of Title 41, Code of Federal Regulations (Uniform Federal Accessibility Standards).

14. That none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such organization

[see Title XX of GEPA, 20 USCA Section 2342(c)(12)].

15. Laborers and mechanics employed by contractors or subcontractors to work on construction projects financed using federal assistance must be paid wages not less than those established for the local project area by the Secretary of Labor. [Davis Bacon Act, 40 USCA 3141, et seq.]

Participation

16. That before each application is submitted, the applicant will afford a reasonable opportunity for public comment on the application and has considered such comment 20 USCA 7846 (a)(7).

17. That the applicant is in compliance with the federal regulations 34 CFR 75.650, 20 USCA 7881 (a)(1) governing private school participation which require that public school subgrantees provide students enrolled in private schools with a genuine opportunity for equitable participation should private schools in the subgrantee's district wish to participate in federal programs. That the applicant who is in receipt of ESEA funding is in compliance with nonpublic school requirements including timely and meaningful consultation with appropriate nonpublic school officials (Title IX, Part E, ESEA).

Nondiscrimination

18. That the applicant assures that it will comply with Title VI of the Civil Rights Act of 1964, as amended, 42 USCA Section 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance; and Section 504 of the Rehabilitation Act of 1973, as amended, 29 USCA Section 794, which prohibits discrimination on the basis of handicap in programs receiving federal financial assistance; and Title IX of Education Amendments of 1972, as amended, 20 USCA Section 1681 et seq., which prohibits discrimination on the basis of sex in education programs receiving federal financial assistance; and the Age Discrimination Act of 1975, as amended, 42 USCA Section 6101 et seq., which prohibits discrimination on the basis of age in programs receiving federal financial assistance; and all regulations, guidelines, and standards lawfully adopted under the above statutes by the U.S. Department of Education.

Gun-Free Schools

19. That the applicant is in compliance with the Gun-Free Schools Act requirements of Section 20-5-202, MCA.

Debarment and Suspension

20. That the applicant certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation by any federal department or agency, and agrees that it will not knowingly enter into any subcontract or subgrant with a person or agency who is debarred, suspended,

declared ineligible or voluntarily excluded from participation by any federal department or agency. If the applicant is unable to provide this certification, an explanation must be attached (see statutory detail in 34 CFR Section 85.105 and 85.110).

Lobbying and Political Activity

21. That the applicant certifies that federal funds will not be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs. [Hatch Act (5 USCA 1501- 508) and Intergovernmental Personnel Act of 1970, as amended by Title VI of Civil Services Reform Act (Pub. L. No. 95-454, Section 4728)]:

a) federal funds received for programs covered by this common assurance form will not be used to influence or attempt to influence an officer or employee of any agency, a Member, officer, or employee of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any federal contract; making any federal grant or loan; entering into any cooperative agreement; and extending, continuing, renewing, amending, or modifying any federal contract, grant, loan, or cooperative agreement.

b) if funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence any of the parties named above, Standard Form LLL, "Disclosure Form to Report Lobbying" will be completed and submitted in accordance with its instructions and returned to the OPI.

c) the language of this section will be included in any subcontracts entered into for funds received under programs covered by this common assurance form, and ensure that all subcontractors certify and disclose accordingly (see statutory detail 34 CFR Section 82).