

§ 136.373

prescribe. However, an application must indicate:

- (1) The pregraduate program in which the applicant is or wishes to enter, and
- (2) Whether the applicant intends to provide health services to Indians upon completion of health professions education or training by serving as described in §136.332 or otherwise as indicated on the application.
- (b) Within the limits of available funds, the Director, IHS, shall make pregraduate scholarship grant awards for a period not to exceed four academic years of an individual's pregraduate education to eligible applicants taking into consideration:
 - (1) Academic performance;
 - (2) Work experience;
 - (3) Faculty or employer recommendation;
 - (4) Stated reasons for asking for the scholarship; and
 - (5) The relative needs of the IHS and Indian health organizations for persons in specific health professions.

(Approved by the Office of Management and Budget under control number 0915-0080)

[49 FR 7381, Feb. 29, 1984. Redesignated and amended at 67 FR 35342, May 17, 2002]

§ 136.373 Scholarship and tuition.

- (a) Scholarship grant awards under this subdivision shall consist of:
 - (1) A stipend of \$400 per month adjusted in accordance with paragraph (c) of this section; and
 - (2) An amount determined by the Secretary for transportation, tuition, fees, books, laboratory expenses and other necessary educational expenses.
- (b) The portion of the scholarship for the costs of tuition and fees as indicated in the grant award will be paid directly to the school upon receipt of an invoice from the school. The stipend and remainder of the scholarship grant award will be paid monthly to the grantee under the conditions specified in the grant award.
- (c) The amount of the monthly stipend specified in paragraph (a)(1) of this section shall be adjusted by the Secretary for each academic year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded down to the next lowest multiple of \$1) equal to the amount of such stipend multiplied by the overall percentage

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(as set forth in the report transmitted to the Congress under section 5305 of title 5, United States Code) of the adjustment in the rates of pay under the General Schedule made effective in the fiscal year in which such academic year ends.

§ 136.374 Availability of list of recipients.

The IHS will provide to any person requesting it a list of the recipients of scholarship grants under this subdivision, including the school attended and tribal affiliation of each recipient.

Subpart K—Indian Child Protection and Family Violence Prevention

SOURCE: 67 FR 59467, Sept. 23, 2002, unless otherwise noted.

§ 136.401 Purpose.

- (a) The purpose of the regulations in this subpart is to establish minimum standards for Federal employees working in the Indian Health Service (IHS), including standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes as mandated by section 408 of the Indian Child Protection and Family Violence Prevention Act (the "Act"), Public Law (Pub. L.) 101-630, 104 Stat. 4544, 25 U.S.C. 3201-3211, as amended by section 814 of the Native American Laws Technical Corrections Act of 2000. In order to implement these minimum standards of character, these regulations also address:
 - (1) The efficiency standards to ensure that individuals are qualified for the positions they hold or seek, as mandated by Section 408 of the Act.
 - (2) Fitness standards to ensure child care service employees are fit to have responsibility for the safety and well-being of children, as mandated by Section 231 of the Crime Control Act of 1990, Pub. L. 101-647, 42 U.S.C. 13041.
 - (3) Suitability standards to ensure that individuals have not acted in a manner that places others at risk or raised questions about their trustworthiness, as mandated by 5 CFR part 731.

(b) The Act requires that Tribes or Tribal organizations who receive funds under the Indian Self-Determination and Education Assistance Act (ISDEA), Pub. L. 93-638, employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under these regulations. Thus, the minimum standards of character as defined in these regulations will become the basis for Tribes or Tribal organizations to use when developing their own minimum standards of character that cannot be less stringent than as prescribed herein.

§ 136.402 Policy.

In enacting the Indian Child Protection and Family Violence Prevention Act, (the "Act") the Congress recognized there is no resource more vital to the continued existence and integrity of Indian Tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian Tribe. The minimum standards of character as prescribed by the regulations in this subpart are intended to ensure that Indian children are protected.

§ 136.403 Definitions.

Crimes against Persons means a crime that has as an element the use, attempted use, or threatened use of physical force or other abuse of a person and includes, but is not limited to, homicide; assault; kidnapping; false imprisonment; reckless endangerment; robbery; rape; sexual assault, molestation, exploitation, contact, or prostitution; and other sexual offenses. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere shall be controlling.

Crimes of violence means a crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other crime that is a felony and that, by its nature, involves substantial risk that physical force

against the person or property of another may be used in the course of committing the crime. In determining whether a crime falls within this category, reference may be made to the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

Indian means any individual who is a member of an Indian Tribe, as defined below.

Indian child means any unmarried person under the age of eighteen who is either a member of an Indian Tribe or eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq., which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Individuals means persons with duties and responsibilities that involve regular contact with or control over Indian children and includes but is not limited to the following:

(a) Persons in the competitive or expected service (including temporary employment), the Commissioned Corps, or the Senior Executive Service in the IHS;

(b) Persons who perform service for or under the supervision of the IHS while being permanently assigned to another IHS office or to another organization, such as a Federal agency, State, or Tribe;

(c) Persons who volunteer to perform services in IHS facilities;

(d) Persons who contract with the IHS to perform services in IHS facilities.

Must or shall indicates a mandatory or imperative act or requirement.

Offenses against children means any felonious or misdemeanor crime under Federal, State, or Tribal law committed against a victim that has not attained the age of eighteen years. In determining whether a crime falls within this category, the applicable