

containing a description of the activities of the advisory board for the preceding year.

(b) *Availability.* The Secretary of the Interior must make available to the Secretary the report described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1411(h)(7))

§ 300.716 Applicable regulations.

The Secretary of the Interior must comply with the requirements of §§ 300.103 through 300.108, 300.110 through 300.124, 300.145 through 300.154, 300.156 through 300.160, 300.165, 300.170 through 300.186, 300.226, 300.300 through 300.606, 300.610 through 300.646, and 300.707 through 300.716.

(Authority: 20 U.S.C. 1411(h)(2)(A))

DEFINITIONS THAT APPLY TO THIS SUBPART

§ 300.717 Definitions applicable to allotments, grants, and use of funds.

As used in this subpart—

(a) *Freely associated States* means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;

(b) *Outlying areas* means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(c) *State* means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(d) *Average per-pupil expenditure in public elementary schools and secondary schools in the United States* means—

(1) Without regard to the source of funds—

(i) The aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all LEAs in the 50 States and the District of Columbia; plus

(ii) Any direct expenditures by the State for the operation of those agencies; divided by (2) The aggregate number of children in average daily attendance to whom those agencies provided

free public education during that preceding year.

(Authority: 20 U.S.C. 1401(22), 1411(b)(1) (C) and (g))

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OR ALTERATION OF FACILITIES

§ 300.718 Acquisition of equipment and construction or alteration of facilities.

(a) *General.* If the Secretary determines that a program authorized under Part B of the Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes.

(b) *Compliance with certain regulations.* Any construction of new facilities or alteration of existing facilities under paragraph (a) of this section must comply with the requirements of—

(1) Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the “Americans with Disabilities Accessibility Standards for Buildings and Facilities”); or

(2) Appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the “Uniform Federal Accessibility Standards”).

(Authority: 20 U.S.C. 1404)

Subpart H—Preschool Grants for Children with Disabilities

§ 300.800 In general.

The Secretary provides grants under section 619 of the Act to assist States to provide special education and related services in accordance with Part B of the Act—

(a) To children with disabilities aged three through five years; and

(b) At a State’s discretion, to two-year-old children with disabilities who will turn three during the school year.

(Authority: 20 U.S.C. 1419(a))

§§ 300.801–300.802 [Reserved]

§ 300.803 Definition of State.

As used in this subpart, State means each of the 50 States, the District of

§ 300.804

Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1419(i))

§ 300.804 Eligibility.

A State is eligible for a grant under section 619 of the Act if the State—

(a) Is eligible under section 612 of the Act to receive a grant under Part B of the Act; and

(b) Makes FAPE available to all children with disabilities, aged three through five, residing in the State.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1419(b))

§ 300.805 [Reserved]

§ 300.806 Eligibility for financial assistance.

No State or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under subpart 2 or 3 of Part D of the Act that relates exclusively to programs, projects, and activities pertaining to children aged three through five years, unless the State is eligible to receive a grant under section 619(b) of the Act.

(Authority: 20 U.S.C. 1481(e))

§ 300.807 Allocations to States.

The Secretary allocates the amount made available to carry out section 619 of the Act for a fiscal year among the States in accordance with §§ 300.808 through 300.810.

(Authority: 20 U.S.C. 1419(c)(1))

§ 300.808 Increase in funds.

If the amount available for allocation to States under § 300.807 for a fiscal year is equal to or greater than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocations are calculated as follows:

(a) Except as provided in § 300.809, the Secretary—

(1) Allocates to each State the amount the State received under section 619 of the Act for fiscal year 1997;

(2) Allocates 85 percent of any remaining funds to States on the basis of

the States' relative populations of children aged three through five; and

(3) Allocates 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged three through five who are living in poverty.

(b) For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(Authority: 20 U.S.C. 1419(c)(2)(A))

§ 300.809 Limitations.

(a) Notwithstanding § 300.808, allocations under that section are subject to the following:

(1) No State's allocation may be less than its allocation under section 619 of the Act for the preceding fiscal year.

(2) No State's allocation may be less than the greatest of—

(i) The sum of—

(A) The amount the State received under section 619 of the Act for fiscal year 1997; and

(B) One-third of one percent of the amount by which the amount appropriated under section 619(j) of the Act for the fiscal year exceeds the amount appropriated for section 619 of the Act for fiscal year 1997;

(ii) The sum of—

(A) The amount the State received under section 619 of the Act for the preceding fiscal year; and

(B) That amount multiplied by the percentage by which the increase in the funds appropriated under section 619 of the Act from the preceding fiscal year exceeds 1.5 percent; or

(iii) The sum of—

(A) The amount the State received under section 619 of the Act for the preceding fiscal year; and

(B) That amount multiplied by 90 percent of the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year.

(b) Notwithstanding paragraph (a)(2) of this section, no State's allocation under § 300.808 may exceed the sum of—

(1) The amount the State received under section 619 of the Act for the preceding fiscal year; and