(Pub. L. 103–239, title VI, § 605, May 4, 1994, 108 Stat. 605; Pub. L. 105–362, title VIII, § 801(c)(6), Nov. 10, 1998, 112 Stat. 3288.)

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–362, which directed substitution of ''(as defined in section 2026(3) of title 25)'' for ''(as defined in section 2019(3) of title 25)'' in section ''605(b)(2) of the School-to-Work Opportunity Act of 1994'', was executed by making the substitution in subsec. (b)(2) of this section, which is section 605 of the School-to-Work Opportunities Act of 1994, to reflect the probable intent of Congress.

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was repealed by Pub. L. 105–220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Part H of title IV of the Act was classified generally to part H (§ 1782 et seq.) of subchapter IV of chapter 19 of Title 29, Labor. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6122, 6142, 6144, 6161, 6172, 6173, 6196 of this title.

SUBCHAPTER VII—TECHNICAL PROVISIONS

§ 6251. Sunset

The authority provided by this chapter shall terminate on October 1, 2001.

(Pub. L. 103–239, title VIII, § 802, May 4, 1994, 108 Stat. 608.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

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CODIFICATION

The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as

Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and amended by Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–576, title III, § 307, Oct. 16, 1968, 82 Stat. 1097; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–193, § 1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–273, §§ 2(12), 3(8), 49(a)–(c), Apr. 21, 1976, 90 Stat. 375, 376, 382; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–112, Aug. 24, 1977, 91 Stat. 911, and was classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, and amended by Pub. L. 96–46, Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 96–470, Oct. 19, 1980, 94 Stat. 2237; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–211, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–511, Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, and amended by Pub. L. 100–569, Oct. 31, 1988, 102 Stat. 2862; Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2865; Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4181; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–250, Mar. 6, 1990, 104 Stat. 96; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 101–589, Nov. 16, 1990, 104 Stat. 2881; Pub. L. 101–600, Nov. 16, 1990, 104 Stat. 3042; Pub. L. 101–647, Nov. 29, 1990, 104 Stat. 4789; Pub. L. 102–62, June 27, 1991, 105 Stat. 305; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 102–359, Aug. 26, 1992, 106 Stat. 962; Pub. L. 102–545, Oct. 27, 1992, 106 Stat. 3586; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–252, May 18, 1994, 108 Stat. 623, and was classified to section 2701 et seq. of this title. The Act is shown, herein, however, as having been added by Pub. L. 103–382 without reference to such intervening amendments because of the extensive amendments, renumbering, reorganization of subject matter, and expansion of the basic 1965 Act's provisions by Pub. L. 103–382.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1228c, 1453, 5893, 6143 of this title; title 8 section 1613; title 42 sections 2000d–5, 2753, 5667e–5, 9832.

SUBCHAPTER I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1087ee, 1087ii, 1401, 1413, 5861, 5891b, 6212, 6661d, 6661e, 6661g, 6671, 6702, 7264, 7472, 7545, 7546, 7575, 7814, 8621, 8622, 8651, 8801, 8821, 8824, 8941, 9252, 9302 of this title; title 8 section 1255a; title 10 sections 1598, 2410; title 25 sections 2503, 2504; title 29 section 774; title 42 sections 9837a, 11432, 11433, 12524.

§ 6301. Declaration of policy and statement of purpose

(a) Statement of policy

(1) In general

The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

(2) Additional policy

The Congress further declares it to be the policy of the United States to expand the program authorized by this subchapter over the fiscal years 1996 through 1999 by increasing funding for this subchapter by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

(b) Recognition of need

The Congress recognizes that—

(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

(4) while this subchapter and other programs funded under this chapter contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 5812(3) of this title, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

(c) What has been learned since 1988

To enable schools to provide all children a high-quality education, this subchapter builds upon the following learned information:

(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

(4) Resources are more effective when resources are used to ensure that children have

full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

(11) Resources provided under this subchapter can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

(d) Statement of purpose

The purpose of this subchapter is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this subchapter to reach such standards;

(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this subchapter receive at least the classroom instruction that other children receive;

(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

(5) coordinating services under all parts of this subchapter with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this subchapter are achieving challenging State student performance standards expected of all children; and

(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

(Pub. L. 89–10, title I, § 1001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.)

EFFECTIVE DATE

Section 3(a)(1) of Pub. L. 103–382 provided that:

''(A) Title I [amending generally Pub. L. 89–10 (formerly chapter 47 of this title, now this chapter)] and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by this Act, and to programs under such Act [this chapter] that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

''(B) Title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994].''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1601], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, provided that: ''This title [amending sections 6302, 6311, 6361 to 6368, 6369b, 6394, 6661a, 6661i, and 8801 of this title and sections 2023 and 2026 of Title 25, Indians, and enacting provisions set out as a note under section 6361 of this title] may be cited as the 'Literacy Involves Families Together Act'.''

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1701], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, provided that: ''This title [enacting part F of subchapter III of this chapter, amending section 9134 of this title and section 254 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and enacting provisions set out as notes under sections 7001 and 9134 of this title and sections 254, 609, and 902 of Title 47] may be cited as the 'Children's Internet Protection Act'.''

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1801], Oct. 30, 2000, 114 Stat. 1654, 1654A–368, provided that: ''This title [amending sections 1228, 7701 to 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes under sections 7701, 7703, and 7711 of this title] may be cited as the 'Impact Aid Reauthorization Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–278, § 1, Oct. 22, 1998, 112 Stat. 2682, provided that: ''This Act [enacting sections 8065a to 8065d

of this title and amending sections 7331, 7351, 8061 to 8065, 8066, 8067, and 8801 of this title] may be cited as the 'Charter School Expansion Act of 1998'.''

Pub. L. 105–277, div. D, title I, § 121, Oct. 21, 1998, 112 Stat. 2681–756, provided that: ''This subtitle [subtitle C (§§ 121, 122) of title I of Pub. L. 105–277, enacting section 7144 of this title] may be cited as the 'Drug-Free Schools Quality Assurance Act'.''

SHORT TITLE OF 1994 AMENDMENTS

Section 1 of Pub. L. 103–382 provided that: ''This Act [see Tables for classification] may be cited as the 'Improving America's Schools Act of 1994'.''

Pub. L. 103–227, title X, § 1031, Mar. 31, 1994, 108 Stat. 270, provided that: ''This part [part B (§§ 1031, 1032) of title X of Pub. L. 103–227, enacting section 3351 of this title and amending sections 3381 to 3384 and 3386 of this title] may be cited as the 'Gun-Free Schools Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–545, § 1, Oct. 27, 1992, 106 Stat. 3586, provided that: ''This Act [see Tables for classification] may be cited as the 'Ready to Learn Act'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–103, title I, § 101, Aug. 17, 1991, 105 Stat. 497, provided that: ''This title [see Tables for classification] may be cited as the 'National Dropout Prevention Act of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–600, § 1, Nov. 16, 1990, 104 Stat. 3042, provided that: ''This Act [see Tables for classification] may be cited as the 'School Dropout Prevention and Basic Skills Improvement Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–226, § 1, Dec. 12, 1989, 103 Stat. 1928, provided that: ''This Act [see Tables for classification] may be cited as the 'Drug-Free Schools and Communities Act Amendments of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–569, title II, § 201, Oct. 31, 1988, 102 Stat. 2862, provided that: ''This title [see Tables for classification] may be cited as the 'National Geography Studies Centers Act'.''

Pub. L. 100–297, § 1(a), Apr. 28, 1988, 102 Stat. 130, provided that: ''This Act [see Tables for classification] may be cited as the 'Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–511, § 1, Oct. 19, 1984, 98 Stat. 2366, provided that: ''This Act [see Tables for classification] may be cited as the 'Education Amendments of 1984'.''

Pub. L. 98–511, title IV, § 401(a), Oct. 19, 1984, 98 Stat. 2389, provided that: ''This title [see Tables for classification] may be cited as the 'Women's Educational Equity Amendments of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, § 1, Nov. 1, 1978, 92 Stat. 2143, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1978'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–112, § 1, Sept. 24, 1977, 91 Stat. 911, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1977'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, § 1, Aug. 21, 1974, 88 Stat. 484, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1974'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121 [see Tables for classification], is popularly known as the ''Elementary and Secondary Education Amendments of 1970''.

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–247, § 1, Jan. 2, 1968, 81 Stat. 783, provided that: ''This Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1967'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–750, § 1, Nov. 3, 1966, 80 Stat. 1191, provided: ''That this Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1966'.''

SHORT TITLE

Section 1 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, provided that: ''This Act [enacting this chapter] may be cited as the 'Elementary and Secondary Education Act of 1965'.''

Pub. L. 89–10, title X, § 10971, as added by Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, provided that: ''This subpart [subpart 2 (§§ 10971–10978) of part J of title X of Pub. L. 89–10, enacting subpart 2 of part J of subchapter X of this chapter] may be cited as the 'Rural Education Achievement Program'.''

Pub. L. 89–10, title X, § 10999A, as added by Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, provided that: ''This part [part L (§§ 10999A–10999L) of title X of Pub. L. 89–10, enacting part L of subchapter X of this chapter] may be cited as the 'Physical Education for Progress Act'.''

TRANSITION PROVISIONS

Section 3(b) of Pub. L. 103–382 provided that: ''Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, formerly chapter 47 (§ 2701 et seq.) of this title, prior to general amendment by Pub. L. 103–382, § 101], as such Act was in effect on the day preceding the date of enactment of this Act [Oct. 20, 1994], may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act [see Tables for classification].''

BUDGET COMPLIANCE

Section 561 of Pub. L. 103–382 provided that: ''Any authority or requirement to make funds available under this Act [see Tables for classification] shall be effective only to the extent provided in appropriations Acts.''

Pub. L. 100–297, title VI, § 6302, Apr. 28, 1988, 102 Stat. 431, provided that: ''Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this Act [see Tables for classification] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.''

EX. ORD. NO. 13153. ACTIONS TO IMPROVE LOW-PERFORMING SCHOOLS

Ex. Ord. No. 13153, May 3, 2000, 65 F.R. 26475, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Elementary and Secondary Education Act of 1965 (ESEA) [20 U.S.C. 6301 et seq.], the Department of Education Appropriations Act, 2000 (as contained in Public Law 106–113) [Pub. L. 106–113, div. B, § 1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–242, see Tables for classification], and in order to take actions to improve low-performing schools, it is hereby ordered as follows:

SECTION 1. *Policy*. Since 1993, this Administration has sought to raise standards for students and to increase

accountability in public education while investing more resources in elementary and secondary schools. While much has been accomplished—there has been progress in math and reading achievement, particularly for low-achieving students and students in our highest poverty schools—much more can be done, especially for low-performing schools.

SEC. 2. *Technical Assistance and Capacity Building*. (a) The Secretary of Education (''Secretary'') shall work with State and local educational agencies (''LEAs'') to develop and implement a comprehensive strategy for providing technical assistance and other assistance to States and LEAs to strengthen their capacity to improve the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

(1) providing States, school districts, and schools receiving funds from the school improvement fund established by Public Law 106–113, as well as other districts and schools identified for school improvement or corrective action under Title I of the ESEA [20 U.S.C. 6301 et seq.], with access to the latest research and information on best practices, including research on instruction and educator professional development, and with the opportunity to learn from exemplary schools and exemplary State and local intervention strategies and from each other, in order to improve achievement for all students in the low-performing schools;

(2) determining effective ways of providing low-performing schools with access to resources from other Department of Education programs, such as funds from the Comprehensive School Reform Demonstration Program, the Reading Excellence Act [Pub. L. 105–277, div. A, §101(f) [title VIII], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, see Tables for classification], the Eisenhower Professional Development Program, the Class Size Reduction Program, and the 21st Century Community Learning Centers Program, and to make effective use of these funds and Title I funds;

(3) providing States and LEAs with information on effective strategies to improve the quality of the teaching force, including strategies for recruiting and retaining highly qualified teachers in high-poverty schools, and implementing research-based professional development programs aligned with challenging standards;

(4) helping States and school districts build partnerships with technical assistance providers, including, but not limited to, federally funded laboratories and centers, foundations, businesses, community-based organizations, institutions of higher education, reform model providers, and other organizations that can help local schools improve;

(5) identifying previously low-performing schools that have made significant achievement gains, and States and school districts that have been effective in improving the achievement of all students in low-performing schools, which can serve as models and resources;

(6) providing assistance and information on how to effectively involve parents in the school-improvement process, including effectively involving and informing parents at the beginning of the school year about improvement goals for their school as well as the goals for their own children, and reporting on progress made in achieving these goals;

(7) providing States and LEAs with information on effective approaches to school accountability, including the effectiveness of such strategies as school reconstitution, peer review teams, and financial rewards and incentives;

(8) providing LEAs with information and assistance on the design and implementation of approaches to choice among public schools that create incentives for improvement throughout the local educational agency, especially in the lowest-performing schools, and that maximize the opportunity of students in low-performing schools to attend a higher-performing public school;

(9) exploring the use of well-trained tutors to raise student achievement through initiatives such as ''America Reads,'' ''America Counts,'' and other work-study opportunities to help low-performing schools;

(10) using a full range of strategies for disseminating information about effective practices, including interactive electronic communications;

(11) working with the Department of Interior, Bureau of Indian Affairs (BIA), to provide technical assistance to BIA-funded low-performing schools; and

(12) taking other steps that can help improve the quality of teaching and instruction in low-performing schools.

(b) The Secretary shall, to the extent permitted by law, take whatever steps the Secretary finds necessary and appropriate to redirect the resources and technical assistance capability of the Department of Education (''Department'') to assist States and localities in improving low-performing schools, and to ensure that the dissemination of research to help turn around low-performing schools is a priority of the Department.

SEC. 3. *School Improvement Report*. To monitor the progress of LEAs and schools in turning around failing schools, including those receiving grants from the School Improvement Fund, the Secretary shall prepare an annual School Improvement Report, to be published in September of each year, beginning in 2000. The report shall:

(a) describe trends in the numbers of LEAs and schools identified as needing improvement and subsequent changes in the academic performance of their students;

(b) identify best practices and significant research findings that can be used to help turn around low-performing LEAs and schools; and

(c) document ongoing efforts as a result of this order and other Federal efforts to assist States and local school districts in intervening in low-performing schools, including improving teacher quality. This report shall be publicly accessible.

SEC. 4. *Compliance Monitoring System*. Consistent with the implementation of the School Improvement Fund, the Secretary shall strengthen the Department's monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106–113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA [20 U.S.C. 6317, 6318], and to developing an ongoing, focused, and systematic process for monitoring these provisions. This improved compliance monitoring shall be designed to:

(a) ensure that States and LEAs comply with ESEA requirements;

(b) assist States and LEAs in implementing effective procedures and strategies that reflect the best research available, as well as the experience of successful schools, school districts, and States as they address similar objectives and challenges; and

(c) assist States, LEAs, and schools in making the most effective use of available Federal resources.

SEC. 5. *Consultation*. The Secretary shall, where appropriate, consult with executive agencies, State and local education officials, educators, community-based groups, and others in carrying out this Executive order.

SEC. 6. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

DEFINITIONS

Pub. L. 100–297, title VI, §6301, Apr. 28, 1988, 102 Stat. 431, provided that: ''Except as otherwise provided, for

the purpose of this Act [see Tables for classification] the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2891].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6491 of this title.

§ 6302. Authorization of appropriations

(a) Local educational agency grants

For the purpose of carrying out part A of this subchapter, other than section 6321(e) of this title, there are authorized to be appropriated $7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Even Start

For the purpose of carrying out part B of this subchapter, there are authorized to be appropriated $250,000,000 for fiscal year 2001 and such sums as may be necessary for each of the four succeeding fiscal years.

(c) Education of migratory children

For the purpose of carrying out part C of this subchapter, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(d) Prevention and intervention programs for youth who are neglected, delinquent, or at risk of dropping out

For the purpose of carrying out part D of this subchapter, there are authorized to be appropriated $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(e) Capital expenses

For the purpose of carrying out section 6321(e) of this title, there are authorized to be appropriated $41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(f) Additional assistance for school improvement

For the purpose of providing additional needed assistance to carry out sections 6317 and 6318 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

(g) Federal activities

(1) Section 6491

For the purpose of carrying out section 6491 of this title, there are authorized to be appropriated $9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Sections 6492 and 6493

For the purpose of carrying out sections 6492 and 6493[1] of this title, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title I, § 1002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3522; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1602], Dec. 21, 2000, 114 Stat. 2763, 2763A–328.)

REFERENCES IN TEXT

Section 6493 of this title, referred to in subsec. (g)(2), was repealed by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–554 substituted ''$250,000,000 for fiscal year 2001'' for ''$118,000,000 for fiscal year 1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6303, 6318, 6319, 6321, 6331, 6332, 6333, 6362, 6492, 6513, 6649 of this title.

§ 6303. Reservation and allocation for school improvement

(a) Payment for school improvement

(1) In general

Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 6317 of this title, and section 6318 of this title, one-half of 1 percent of the funds allocated to the State under subsections (a), (c), and (d),[1] of section 6302 of this title for fiscal year 1995 and each succeeding fiscal year.

(2) Minimum

The total amount that may be reserved by each State, other than the outlying areas, under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 6302(f) of this title that are allocated to the State under subsection (b) of this section, if any, may not be less than $200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 6302(f) of this title that are allocated under subsection (b) of this section to the outlying area, if any, may not be less than $25,000.

(3) Special rule

If the amount reserved under paragraph (1) when added to the amount made available under section 6302(f) of this title for a State is less than $200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 6302 of this title as are necessary to make $200,000 available to such State.

(b) Additional State allocations for school improvement

From the amount appropriated under section 6302(f) of this title for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 6321(e) of this title) bears to the total amount allocated to all States under this part (other than section 6321(e) of this title).

[1] See References in Text note below.

[1] So in original. The comma probably should not appear.

(Pub. L. 89–10, title I, § 1003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3522.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6318 of this title.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1401, 5891b, 6302, 6362, 6366, 6368, 6394, 6396, 6422, 6491, 6642, 6643, 6645, 6647, 6648, 6649, 6650, 6841, 6894, 6895, 6896, 6952, 6974, 7111, 7713, 8065a, 8065b, 8272, 8293, 8294, 8801, 8826, 8857 of this title; title 31 section 6703.

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§ 6311. State plans

(a) Plans required

(1) In general

Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, consistent with section 8856 of this title.

(2) Consolidation plan

A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 8852 of this title.

(b) Standards and assessments

(1) Challenging standards

(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

(B) If a State has State content standards or State student performance standards developed under title III[1] of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which standards shall include the same knowledge, skills, and levels of performance expected of all children.

(D) Standards under this paragraph shall include—

(i) challenging content standards in academic subjects that—

(I) specify what children are expected to know and be able to do;

(II) contain coherent and rigorous content; and

(III) encourage the teaching of advanced skills;

(ii) challenging student performance standards that—

(I) are aligned with the State's content standards;

(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

(2) Yearly progress

(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

(i) any school served under this part toward enabling children to meet the State's student performance standards; and

(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

(B) Adequate yearly progress shall be defined in a manner—

(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

[1] See References in Text note below.

(3) Assessments

Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

(i) grades 3 through 5;

(ii) grades 6 through 9; and

(iii) grades 10 through 12;

(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

(F) provide for—

(i) the participation in such assessments of all students;

(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

(4) Special rule

Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

(5) Language assessments

Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

(6) Standard and assessment development

(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after October 20, 1994.

(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after October 20, 1994, and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an exten-

sion under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

(7) Transitional assessments

(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 6317(d) of this title, and schools under paragraphs (1) and (7) of section 6317(c) of this title, that rely on accurate information about the academic progress of each such local educational agency and school.

(8) Requirement

Each State plan shall describe—

(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 6312(c)(1)(D), 6314(b), and 6315(c) of this title that is applicable to such agency or school; and

(B) such other factors the State deems appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

(c) Other provisions to support teaching and learning

Each State plan shall contain assurances that—

(1)(A) the State educational agency will implement a system of school support teams under section 6318(c) of this title, including provision of necessary professional development for those teams;

(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 6320 of this title and technical assistance under section 6318 of this title; and

(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

(ii) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 6317 of this title, including such corrective actions as are necessary;

(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 6314 of this title;

(5) the Committee of Practitioners established under section 6513(b) of this title will be substantially involved in the development of the plan and will continue to be involved in monitoring the plan's implementation by the State;

(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate; and

(7) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

(d) Peer review and secretarial approval

(1) In general

The Secretary shall—

(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c) of this section;

(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c) of this section, immediately notify the State of such determination and the reasons for such determination;

(E) not decline to approve a State's plan before—

(i) offering the State an opportunity to revise its plan;

(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c) of this section; and

(iii) providing a hearing; and

(F) have the authority to disapprove a State plan for not meeting the requirements

of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

(2) Withholding

The Secretary may withhold funds for State administration and activities under section 6318 of this title until the Secretary determines that the State plan meets the requirements of this section.

(e) Duration of plan

(1) In general

Each State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(2) Additional information

If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

(f) Limitation on conditions

Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

(g) Special rule

If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

(Pub. L. 89–10, title I, § 1111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3523; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1603], Dec. 21, 2000, 114 Stat. 2763, 2763A–328.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(7). Pub. L. 106–554 added par. (7).

1996—Subsec. (b)(8)(B). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(1)(A)], struck out "(which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act)" after "the State deems appropriate".

Subsec. (f). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(1)(B)], struck out "opportunity-to-learn standards or strategies," before "curriculum".

Subsecs. (g), (h). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(1)(C), (D)], redesignated subsec. (h) as (g) and struck out heading and text of former subsec. (g). Text read as follows: "Nothing in this chapter shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5891b, 6312, 6314, 6316, 6317, 6318, 6319, 6434, 7421, 7426, 7476, 7814, 8295, 8857 of this title.

§ 6312. Local educational agency plans

(a) Plans required

(1) Subgrants

A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, as specified in section 8856 of this title.

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 8854 of this title.

(b) Plan provisions

Each local educational agency plan shall include—

(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 6311 of this title, that the local educational agency and schools served under this part will use to—

(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 6311(b)(1)(D)(ii) of this title;

(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

(C) determine what revisions are needed to projects under this part so that such chil-

dren will meet the State's student performance standards;

(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 6320 of this title;

(4) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

(B) services for children with limited English proficiency or with disabilities, migratory children served under part C of this subchapter or who were formerly eligible for services under part C of this subchapter in the two-year period preceding October 20, 1994, neglected or delinquent youth and youth at risk of dropping out served under part D of this subchapter, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(5) a description of the poverty criteria that will be used to select school attendance areas under section 6313 of this title;

(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 6315 of this title, will identify the eligible children most in need of services under this part;

(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 6314 and 6315 of this title and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 9836 of title 42, agencies operating Even Start programs, or another comparable public early childhood development program.

(c) Assurances

(1) In general

Each local educational agency plan shall provide assurances that the local educational agency will—

(A) inform eligible schools and parents of schoolwide project authority;

(B) provide technical assistance and support to schoolwide programs;

(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 6314 of this title and assist schools as the schools implement such plans or undertake activities pursuant to section 6315 of this title so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

(D) fulfill such agency's school improvement responsibilities under section 6317 of this title, including taking corrective actions under section 6317(c)(4)[1] of this title;

(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 6321 of this title, and timely and meaningful consultation with private school officials regarding such services;

(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 9836a(a) of title 42 or under section 9846 of title 42, as such section 9846 of title 42 was in effect on the day preceding May 18, 1994.

(2) Special rule

In carrying out subparagraph (H) of paragraph (1) the Secretary—

(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local

[1] So in original. Probably should be section ''6317(c)(5)''.

educational agencies to comply with such subparagraph; and

(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 9836a(a) of title 42, and such agencies effected[2] by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

(3) Inapplicability

The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

(d) Plan development and duration

Each local educational agency plan shall—

(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

(e) State approval

(1) In general

Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after October 20, 1994, to have such plan provisionally approved by the State educational agency and not more than two years after October 20, 1994, to have such plan finally approved by the State educational agency.

(2) Approval

The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 6311(b)(1) of this title.

(3) Review

The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 6320 of this title.

(f) Program responsibility

The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 6314 and 6315 of this title.

[2] So in original. Probably should be ''affected''.

(Pub. L. 89–10, title I, § 1112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3529.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 9846 of title 42, referred to in subsec. (c)(1)(H), was in the original a reference to section 651 of the Head Start Act, which was amended and renumbered as section 650 by Pub. L. 103–252, title I, § 118, May 18, 1994, 108 Stat. 648.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6313, 6314, 6317, 6319, 6320, 7814, 8857 of this title.

§ 6313. Eligible school attendance areas

(a) Determination

(1) In general

A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) Eligible school attendance areas

For the purposes of this part—

(A) the term ''school attendance area'' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term ''eligible school attendance area'' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

(3) Ranking order

If funds allocated in accordance with subsection (c) of this section are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order.

(4) Remaining funds

If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) Measures

The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(A) to identify eligible school attendance areas;

(B) to determine the ranking of each area; and

(C) to determine allocations under subsection (c) of this section.

(6) Exception

This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) Waiver for desegregation plans

The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c) of this section, and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) Local educational agency discretion

(1) In general

Notwithstanding subsection (a)(2) of this section, a local educational agency may—

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency; and

(C) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

(i) the school meets the comparability requirements of section 6322(c) of this title;

(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 6314 or 6315 of this title; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) Special rule

Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

(c) Allocations

(1) In general

A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b) of this section, in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) Special rule

(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 6312 of this title, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.

(3) Reservation

A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

(B) children in local institutions for neglected or delinquent children; and

(C) where appropriate, neglected and delinquent children in community day school programs.

(Pub. L. 89–10, title I, § 1113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3532; amended Pub. L. 104–193, title I, § 110(j)(1), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 106–78, title VII, § 752(b)(10), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(5), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1999—Subsec. (a)(5). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

1996—Subsec. (a)(5). Pub. L. 104–193 substituted ''State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children program''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5891a, 5891b, 6312, 6315 of this title.

§ 6314. Schoolwide programs

(a) Use of funds for schoolwide programs

(1) In general

A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

(A) For the school year 1995–1996—

(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

(ii) not less than 60 percent of the children enrolled in the school are from such families.

(B) For the school year 1996–1997 and subsequent years—

(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

(ii) not less than 50 percent of the children enrolled in the school are from such families.

(2) State assurances

(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 6318 of this title.

(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 6318 of this title shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

(3) Identification

(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

(4) Special rule

(A) Except as provided in subsection (b) of this section, the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]), to support schoolwide programs, if the intent and purposes of such other programs are met.

(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

(5) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) of this section in accordance with section 6320 of this title for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(b) Components of schoolwide program

(1) In general

A schoolwide program shall include the following components:

(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 6311(b)(1) of this title.

(B) Schoolwide reform strategies that—

(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 6311(b)(1)(D) of this title;

(ii) are based on effective means of improving the achievement of children;

(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

(aa) counseling, pupil services, and mentoring services;

(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

(dd) incorporation of gender-equitable methods and practices; and

(II) address how the school will determine if such needs have been met; and

(vii)[1] are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III[2] of the Goals 2000: Educate America Act.

(C) Instruction by highly qualified professional staff.

(D) In accordance with section 6320 of this title and subsection (a)(5) of this section, professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

(E) Strategies to increase parental involvement, such as family literary services.

(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

(G) Measures to include teachers in the decisions regarding the use of assessments described in section 6312(b)(1) of this title in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

(H) Activities to ensure that students who experience difficulty mastering any of the standards required by section 6311(b) of this title during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

(I) what the school will do to help the student meet such standards;

(II) what the parents can do to help the student improve the student's performance; and

(III) additional assistance which may be available to the student at the school or elsewhere in the community.

(2) Plan

(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before October 20, 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 6318 of this title, a comprehensive plan for reforming the total instructional program in the school that—

(i) incorporates the components described in paragraph (1);

(ii) describes how the school will use resources under this part and from other sources to implement those components;

(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) of this section that will be included in the schoolwide program;

(iv) describes how the school will provide individual student assessment results, in-

[1] So in original. No cls. (v) and (vi) have been enacted.

[2] See References in Text note below.

cluding an interpretation of those results, to the parents of a child who participates in the assessment required by section 6311(b)(3) of this title;

(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 6311(b) of this title shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

(C) The comprehensive plan shall be—

(i) developed during a one-year period, unless—

(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 6318 of this title, determines that less time is needed to develop and implement the schoolwide program; or

(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994 [Oct. 20, 1994], in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], and the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.].

(c) Accountability

A schoolwide program under this section shall be subject to the school improvement provisions of section 6317 of this title.

(Pub. L. 89–10, title I, § 1114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3534; amended Pub. L. 105–332, § 3(c)(1), Oct. 31, 1998, 112 Stat. 3125.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(4)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(B)(vii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Improving America's Schools Act of 1994, referred to in subsec. (b)(2)(C)(i)(II), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(2)(C)(v), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (b)(2)(C)(v), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(C)(v), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (b)(2)(C)(v). Pub. L. 105–332, which directed substitution of "Carl D. Perkins Vocational and Technical Education Act of 1998" for "Carl D. Perkins Vocational and Applied Technical Education Act", was executed by making the substitution for "Carl D. Perkins Vocational and Applied Technology Education Act" to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1413, 6311, 6312, 6313, 6315, 6319, 6320, 6394, 6396, 6672, 7815, 8102, 8622, 8651, 8941 of this title; title 42 section 3030g–12.

§ 6315. Targeted assistance schools

(a) In general

In all schools selected to receive funds under section 6313(c) of this title that are ineligible for

a schoolwide program under section 6314 of this title, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) of this section identified as having the greatest need for special assistance.

(b) Eligible children

(1) Eligible population

(A) The eligible population for services under this part is—

(i) children not older than age 21 who are entitled to a free public education through grade 12; and

(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) Children included

(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D of this subchapter (or its predecessor authority) may be eligible for services under this part.

(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

(c) Components of targeted assistance school program

(1) In general

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

(B) be based on effective means for improving achievement of children;

(C) ensure that planning for students served under this part is incorporated into existing school planning;

(D) use effective instructional strategies that—

(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

(E) coordinate with and support the regular education program, which may include—

(i) counseling, mentoring, and other pupil services;

(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

(F) provide instruction by highly qualified staff;

(G) in accordance with subsection (e)(3) of this section and section 6320 of this title, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

(H) provide strategies to increase parental involvement, such as family literary services.

(2) Requirements

Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) of this section to meet the State's proficient and advanced levels of performance by—

(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

(d) Assignment of personnel

To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

(2) participate in general professional development and school planning activities; and

(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

(e) Special rules

(1) Simultaneous service

Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(2) Comprehensive services

If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

(B) compensation of a coordinator; and

(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(3) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) of this section in accordance with section 6320 of this title, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(Pub. L. 89–10, title I, § 1115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6313, 6321, 6394 of this title.

§ 6316. School choice

(a) Choice programs

A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

(b) Choice plan

A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

(1) all eligible students across grade levels will have equal access to the program;

(2) the program does not include schools which follow a racially discriminatory policy;

(3) describe how the school will use resources under this part and from other sources to implement the plan;

(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 6311(b)(3) of this title;

(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

(6) the plan will be made available to parents and the public;

(7) the program will not include schools that do not receive funds under this part;

(8) the program will not use funds under this part to pay for transportation costs;

(9) both the sending and receiving schools agree to the student transfer; and

(10) such local educational agency will comply with the other requirements of this part.

(Pub. L. 89–10, title I, § 1115A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542.)

§ 6317. Assessment and local educational agency and school improvement

(a) Local review

Each local educational agency receiving funds under this part shall—

(1) use the State assessments described in the State plan;

(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 6311(b)(2)(A)(i) of this title toward enabling its students to meet the State's student performance standards described in the State plan;

(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 6311(b)(3)(I) of this title; and

(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

(b) Designation of distinguished schools

Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 6318 of this title.

(c) School improvement

(1) In general

A local educational agency shall identify for school improvement any school served under this part that—

(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994), for at least two consecutive school years prior to such day;

(B) has not made adequate progress as defined in the State's plan under section 6311(b)(2)(A)(i) of this title for two consecutive school years, except that—

(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 6311(b)(7)(B) of this title for two consecutive years.

(2) Requirement

(A) Each school identified under paragraph (1) shall—

(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards; and

(ii) submit the plan or revised plan to the local educational agency for approval.

(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

(3) Professional development

(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

(B) A school may use funds from any source to meet the requirements of this subsection.

(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

(4) Technical assistance

(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 6318 of this title, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of subchapter XIII of this chapter, or other entities with experience in helping schools improve achievement.

(5) Corrective action

(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

(I) withholding funds;

(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

(III) revoking authority for a school to operate a schoolwide program;

(IV) decreasing decisionmaking authority at the school level;

(V) making alternative governance arrangements such as the creation of a public charter school;

(VI) reconstituting the school staff; and

(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency.

(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 6311(b)(3) of this title.

(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

(6) State educational agency responsibilities

The State educational agency shall—

(A) make technical assistance under section 6318 of this title available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

(7) Special rule

Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

(d) State review and local educational agency improvement

(1) In general

A State educational agency shall—

(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 6311(b)(2)(A)(ii) of this title toward meeting the State's student performance standards; and

(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 6311(b)(3)(I) of this title.

(2) Rewards

In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 6311(b)(2)(A)(ii) of this title, the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 6318(c) of this title.

(3) Identification

(A) A State educational agency shall identify for improvement any local educational agency that—

(i) for two consecutive years, is not making adequate progress as defined in section 6311(b)(2)(A)(ii) of this title in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 6311(b)(7)(B) of this title for two consecutive years.

(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

(4) Local educational agency revisions

(A) Each local educational agency identified under paragraph (3) shall, in consultation with

schools, parents, and educational experts, revise its local educational agency plan under section 6312 of this title in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement.

(5) State educational agency responsibility

(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

(i) provide technical or other assistance, if requested, as authorized under section 6318 of this title, to better enable the local educational agency to—

(I) develop and implement the local educational agency's revised plan; and

(II) work with schools needing improvement; and

(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 6318 of this title.

(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

(6) Corrective action

(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

(I) the withholding of funds;

(II) reconstitution of school district personnel;

(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

(IV) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

(V) the abolition or restructuring of the local educational agency;

(VI) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

(VII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 6311(b) of this title.

(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

(7) Special rule

Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

(e) Construction

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(Pub. L. 89–10, title I, § 1116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

Section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (c)(1)(A), means section 1020 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 164, which was classified to section 2730 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1996—Subsec. (c)(2)(A)(i). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(2)(A)(i)], struck out ", which may include

reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act'' after ''student performance standards''.

Subsec. (c)(5)(B)(i)(VI) to (VIII). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(2)(A)(ii)], inserted ''and'' at end of subcl. (VI), substituted period for ''; and'' at end of subcl. (VII), and struck out subcl. (VIII) which read as follows: ''implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.''

Subsec. (d)(4)(B). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(2)(B)(i)], struck out '', and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act'' after ''achievement''.

Subsec. (d)(6)(B)(i)(IV) to (VIII). Pub. L. 104–134, § 101(d) [title VII, § 703(b)(2)(B)(ii)], redesignated subcls. (V) to (VIII) as (IV) to (VII), respectively, and struck out former subcl. (IV) which read as follows: ''implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5891b, 6302, 6303, 6311, 6312, 6314, 6318, 6319, 6320, 6661d, 6661e, 7351 of this title.

§ 6318. State assistance for school support and improvement

(a) System for support

(1) State support

Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

(2) Meeting requirements

Funds reserved under section 6303(a) of this title or appropriated under section 6302(f) of this title shall be used to meet the requirements of this section. In addition to such funds a State educational agency may use State administrative funds reserved under section 6513(c) of this title to meet such requirements.

(b) Regional centers

Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of subchapter XIII of this chapter and the educational regional laboratories under section 6041(h) of this title.

(c) Provisions

The system shall include at a minimum, the following:

(1) School support teams

(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

(B) If funds are sufficient, school support teams shall provide information and assistance to—

(i) schools—

(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

(II) identified as in need of improvement under section 6317(c)(1) of this title; and

(ii) other schools in need of improvement.

(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low-achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

(ii) identify problems in the design and operation of the instructional program; and

(iii) make recommendations for improvement to the school and the local educational agency.

(2) Distinguished schools

(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 6311(b)(2)(A)(i) of this title, and, any school in which—

(i) virtually all students have met the State's advanced level of student performance; and

(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

(C) States shall use funds reserved under section 6303(a) of this title and funds made available under section 6302(f) of this title to allow schools identified under this paragraph to

carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

(3) Distinguished educators

(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 6303(a) of this title and made available under section 6302(f) of this title, shall establish a corps of distinguished educators.

(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

(d) Implementation

In order to implement this section funds reserved under section 6303(a) of this title and funds made available under section 6302(f) of this title may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

(e) Alternatives

The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c) of this section, such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 6303 of this title and funds made available under section 6302(f) of this title for such approaches as part of the State plan.

(Pub. L. 89–10, title I, § 1117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3548.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6303, 6311, 6314, 6317, 7351 of this title.

§ 6319. Parental involvement

(a) Local educational agency policy

(1) In general

A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

(2) Written policy

Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 6312 of this title, establishes the expectations for parent involvement, and describes how the local educational agency will—

(A) involve parents in the joint development of the plan under section 6312 of this title, and the process of school review and improvement under section 6317 of this title;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e) of this section;

(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

(i) to determine the effectiveness of the policy in increasing the participation of parents; and

(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1) of this section.

(3) Reservation

(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not

apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 6302(e) of this title) for the fiscal year for which the determination is made is $5,000 or less.

(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(b) School parental involvement policy

(1) In general

Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section. Such policy shall be updated periodically to meet the changing needs of parents and the school.

(2) Special rule

If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) Amendment

If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) Parental comments

If the plan under section 6312 of this title is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) Policy involvement

Each school served under this part shall—

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 6314(b) of this title, except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this part;

(B) school performance profiles required under section 6317(a)(3) of this title and their child's individual student assessment results, including an interpretation of such results, as required under section 6311(b)(3)(H) of this title;

(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

(E) timely responses to parents' suggestions under subparagraph (D); and

(5) if the schoolwide program plan under section 6314(b)(2) of this title is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) Shared responsibilities for high student performance

As a component of the school-level parental involvement policy developed under subsection (b) of this section, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

(e) Building capacity for involvement

To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 6311(b)(8) of this title, State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

(2) shall provide materials and training, such as—

(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

(B) training to help parents to work with their children to improve their children's achievement;

(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between elementary, middle, and secondary schools and local businesses that include a role for parents;

(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

(11) may train and support parents to enhance the involvement of other parents;

(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) Accessibility

In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

(g) Parental information and resource centers

In States where parental information and resource centers have been established pursuant to section 5911[1] of this title (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

(Pub. L. 89–10, title I, § 1118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3550.)

REFERENCES IN TEXT

Section 5911 of this title, referred to in subsec. (g), was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6394 of this title.

§ 6320. Professional development

(a) Program requirements

(1) In general

Each local educational agency receiving assistance under this part shall provide high-

[1] See References in Text note below.

quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

(2) Program design

Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

(b) Professional development activities

(1) Required activities

Such professional development activities shall—

(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

(B) support local educational agency plans under section 6312 of this title and school plans under section 6314 of this title;

(C) draw on resources available under this part, title III[1] of the Goals 2000: Educate America Act, subchapter II of this chapter, and from other sources;

(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

(2) Optional activities

Such professional development activities may include—

(A) instruction in the use of assessments;

(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

(D) instruction in the use of technology;

(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

(F) instruction in ways to teach special needs children;

(G) instruction in gender-equitable education methods, techniques, and practices;

(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

(I) instruction in experiential-based teaching methods such as service learning.

[1] See References in Text note below.

(c) Program participation

Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

(1) all school staff in schools participating in a schoolwide program under section 6314 of this title can participate in professional development activities; and

(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

(d) Parental participation

Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

(e) Consortia

In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

(f) Effective teaching strategies

Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

(g) Combinations of funds

Funds provided under this part that are used for professional development purposes may be combined with funds provided under subchapter II of this chapter, title III[1] of the Goals 2000: Educate America Act, and other sources.

(h) State review

(1) In general

The State educational agency shall review the local educational agency's plan under section 6312(b) of this title to determine if such agency's professional development activities—

(A) are tied to challenging State student content and student performance standards;

(B) reflect research on teaching and learning where possible;

(C) are designed to have a positive impact on the teacher's performance in the classroom;

(D) contribute to continuous improvement in the classroom or throughout the school;

(E) include methods to teach children with special needs;

(F) are developed with the extensive participation of teachers; and

(G) include gender-equitable education methods, techniques, and practices.

(2) Technical assistance

If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward

inclusion of such activities in the local educational agency's professional development activities.

(3) Special rule

No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 6317(d)(6) of this title.

(i) Instructional aides

(1) In general

If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

(B) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

(2) Inclusion in activities

Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

(Pub. L. 89–10, title I, § 1119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3555.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (b)(1)(C) and (g), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6314, 6315 of this title.

§ 6321. Participation of children enrolled in private schools

(a) General requirement

(1) In general

To the extent consistent with the number of eligible children identified under section 6315(b) of this title in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

(2) Secular, neutral, nonideological

Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) Equity

Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

(4) Expenditures

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

(5) Provision of services

The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Consultation

(1) In general

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how and where the services will be provided;

(D) how the services will be assessed; and

(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) of this section for such services.

(2) Timing

Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

(3) Discussion

Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(c) Public control of funds

(1) In general

The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

(2) Provision of services

(A) The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(d) Standards for a bypass

If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

(1) waive the requirements of this section for such local educational agency; and

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 8895 and 8896 of this title.

(e) Capital expenses

(1) In general

(A) From the amount appropriated for this subsection under section 6302(e) of this title for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

(2) Capital expenses

(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

(3) Uses of funds

Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

(4) "Capital expenses" defined

For the purpose of this subsection, the term ''capital expenses'' means—

(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

(B) insurance and maintenance costs;

(C) transportation; and

(D) other comparable goods and services.

(Pub. L. 89–10, title I, § 1120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6303, 6312, 6394, 7545 of this title.

§ 6322. Fiscal requirements

(a) Maintenance of effort

A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 8891 of this title.

(b) Federal funds to supplement, not supplant, non-Federal funds

(1) In general

A State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

(2) Special rule

No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

(c) Comparability of services

(1) In general

(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

(2) Written assurance

(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

(i) a local educational agency-wide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

(3) Procedures and records

Each local educational agency assisted under this part shall—

(A) develop procedures for compliance with this subsection; and

(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

(4) Inapplicability

This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

(5) Compliance

For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

(A) bilingual education for children of limited English proficiency; and

(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

(d) Exclusion of funds

For the purpose of complying with subsections (b) and (c) of this section, a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

(Pub. L. 89–10, title I, § 1120A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3559; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2754], Apr. 26, 1996, 110 Stat. 1321–77, 1321–150; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–134, § 101(b) [title II, § 2754(1)], substituted ''A State'' for ''(A) Except as provided in subparagraph (B), a State'' and struck out subpar. (B) which read as follows: ''For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.''

Subsec. (d). Pub. L. 104–134, § 101(b) [title II, § 2754(2)], added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–134, title I, § 101(b) [title II, § 2003], Apr. 26, 1996, 110 Stat. 1321–77, 1321–112, as amended by Pub. L. 106–113, div. A, title I, § 155, Nov. 29, 1999, 113 Stat. 1526, provided that: ''Except as otherwise provided in this title [amending this section and sections 6364 and 6365 of this title], this title shall be effective beginning on the date of enactment of this Act [Apr. 26, 1996].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6313, 6394, 6435 of this title.

§ 6323. Coordination requirements

(a) In general

Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) of this section to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

(b) Activities

The activities referred to in subsection (a) of this section are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

(c) Coordination of regulations

The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

(Pub. L. 89–10, title I, § 1120B, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3560.)

REFERENCES IN TEXT

The Head Start Act Amendments of 1994, referred to in subsec. (c), is title I of Pub. L. 103–252, May 18, 1994, 108 Stat. 624. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 9801 of Title 42, The Public Health and Welfare, and Tables.

SUBPART 2—ALLOCATIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 8505, 8512 of this title.

§ 6331. Grants for outlying areas and Secretary of the Interior

(a) Reservation of funds

From the amount appropriated for payments to States for any fiscal year under section 6302(a) of this title, the Secretary shall reserve a total of 1 percent to provide assistance to—

(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c) of this section.

(b) Assistance to outlying areas

(1) In general

From amounts made available under subsection (a) of this section in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

(2) Competitive grants

(A) The Secretary shall reserve $5,000,000 from the amounts made available under subsection (a) of this section in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

(c) Allotment to Secretary of the Interior

(1) In general

The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

(2) Payments

From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section, the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

(B) 48 percent of such expenditure in the United States.

(Pub. L. 89–10, title I, § 1121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3561.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6895, 8801 of this title.

§ 6332. Allocations to States

(a) In general

(1) Fiscal year 1995

For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

(A) 0.25 percent of total appropriations; and

(B) the average of—

(i) 0.25 percent of total appropriations; and

(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State[1] total number of such children, or $340,000.

(2) Succeeding fiscal years

For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 6333 of this title, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 6334 of this title. Any additional appropriations under section 6302(a) of this title for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 6335 of this title.

(b) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this part for any fiscal year are insufficient to pay the full

[1] So in original. Probably should be "State's".

amounts that all local educational agencies in States are eligible to receive under sections 6333, 6334, and 6335 of this title for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

(2) Additional funds

If additional funds become available for making payments under sections 6333, 6334, and 6335 of this title for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(c) Hold-harmless amounts

(1) In general

For fiscal year 1995, notwithstanding subsection (b) of this section and without regard to amounts available for delinquent children under subpart 2 of part D of this subchapter, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

(2) Fiscal year 1996

Notwithstanding subsection (b) of this section and without regard to amounts available for delinquent children under subpart 2 of part D of this subchapter, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 6333 and 6334 of this title for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

(3) Fiscal years 1997 through 1999

For fiscal years 1997 through 1999, notwithstanding subsection (b) of this section and without regard to amounts available for delinquent children under subpart 2 of part D of this subchapter, the amount made available to each local educational agency under each of sections 6333 and 6335 of this title shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 6333 of this title is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-homeless[2] percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this paragraph.

(d) Ratable reductions

(1) In general

If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) of this section for such year, the Secretary shall ratably reduce such amounts for such year.

(2) Additional funds

If additional funds become available for making payments under subsection (c) of this section for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts reduced.

(e) "State" defined

For the purpose of this section and sections 6333 and 6335 of this title, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, § 1122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3562.)

REFERENCES IN TEXT

Sections 1005 and 1006 of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, referred to in subsecs. (a) and (c)(1), mean sections 1005 and 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 141, 146, as amended, which were classified to sections 2711 and 2712, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6333, 6334, 6335 of this title; title 42 section 11432.

§ 6333. Basic grants to local educational agencies

(a) Amount of grants

(1) Grants for local educational agencies and Puerto Rico

The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 6337 of this title), be determined by multiplying the number of children counted under subsection (c) of this section by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

(2) Basis for calculating grants

For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the

[2] So in original. Probably should be "hold-harmless".

basis of the number of children counted under subsection (c) of this section for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 6334 of this title) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c) of this section; or

(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either—

(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

(3) Puerto Rico

For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence; and

(B) 32 percent of the average per pupil expenditure in the United States.

(4) "State" defined

For purposes of this subsection, the term ''State'' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

(b) Minimum number of children to qualify

Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) of this section in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(c) Children to be counted

(1) Categories of children

The number of children to be counted for purposes of this section is the aggregate of—

(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

(C) the number of children aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D of this subchapter for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2) Determination of number of children

For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. For fiscal year 1999 and beyond, the District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

(3) Population updates

In fiscal year 1997 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

(4) Study

(A) The Secretary of Education shall, within 30 days after October 20, 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the ''Academy'') to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

(B) In conducting its study, the Academy shall consider such matters as—

(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

(i) not later than 18 months after the date on which a contract is entered into under subsection (a) of this section, and not later than every 18 months thereafter, such interim reports on the Academy's activities under this chapter that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census publishes and produces, within 90 days of such publication; and

(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by the Bureau of the Census as the basis for allocating Federal funds under this chapter.

(D) Of the funds appropriated under section 6302(f) of this title, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

(5) Other children to be counted

For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual in-

come, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(6) Estimate

When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph[1]) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) State minimum

Notwithstanding subsection (b)(1) or (d) of section 6332 of this title, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

(1) 0.25 percent of total grants under this section; or

(2) the average of—

(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

(B) the number of children in such State counted under subsection (c) of this section in the fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

[1] So in original. Probably should be "paragraph (2) of this subsection".

(Pub. L. 89–10, title I, § 1124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3564; amended Pub. L. 104–193, title I, § 110(j)(2), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (c)(5). Pub. L. 104–193 substituted "a State program funded under part A of" for "the program of aid to families with dependent children under a State plan approved under".

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

ABOLITION OF HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight of House of Representatives, see section 1(b) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–24, 2351, 6332, 6334, 6335, 6336, 6337, 6661d, 6661e of this title.

§ 6334. Concentration grants to local educational agencies

(a) Eligibility for and amount of grants

(1) In general

(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional

grant under this section for that fiscal year if—

(i) the number of children counted under section 6333(c) of this title in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or

(ii) the number of children counted under section 6333(c) of this title exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.

(B) Notwithstanding such subsections (b)(1) and (d) of section 6332 of this title, no State described in subparagraph (A) shall receive less than the lesser of—

(i) 0.25 percent of total grants; or

(ii) the average of—

(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

(II) the greater of—

(aa) $340,000; or

(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

(2) Special rule

For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

(A) the number of children counted under section 6333(c) of this title for that fiscal year; and

(B) the quotient resulting from the division of the amount determined for those agencies under section 6333(a)(1) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 6333(c) of this title for that agency for fiscal year.

(3) Amount

The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

(4) Suballocation

For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 6333(c) of this title for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 6333(c) of this title; or

(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State edu-

cational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

(b) Reservation of funds

Of the total amount of funds available for this section and sections 6333 and 6335 of this title, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding October 20, 1994) shall be available to carry out this section.

(c) Ratable reduction rule

If the sums available under subsection (b) of this section for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) of this section for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) of this section for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d) States receiving minimum grants

In States that receive the minimum grant under subsection (a)(1)(B) of this section, the State educational agency shall allocate such funds among the local educational agencies in each State either—

(1) in accordance with paragraphs (2) and (4) of subsection (a) of this section; or

(2) based on their respective concentrations and numbers of children counted under section 6333(c) of this title, except that only those local educational agencies with concentrations or numbers of children counted under section 6333(c) of this title that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

(Pub. L. 89–10, title I, § 1124A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3569.)

REFERENCES IN TEXT

Section 1006 of this Act (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (b), means section 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 146, as amended, which was classified to section 2712 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

CODIFICATION

October 20, 1994, referred to in subsec. (b), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–382, which enacted this section, to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6332, 6333, 6335, 6336, 6337 of this title.

§ 6335. Targeted grants to local educational agencies

(a) Eligibility of local educational agencies

A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection[1] 6333(c) of this title, before application of the weighting factor described in subsection (c) of this section, is at least 10, and if the number of children counted for grants under section 6333 of this title is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. Funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(b) Grants for local educational agencies, the District of Columbia, and Puerto Rico

(1) In general

The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

(A) the weighted child count determined under subsection (c) of this section; and

(B) the amount in the second sentence of subparagraph 6333(a)(1)(A)[2] of this title.

(2) Puerto Rico

For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) of this section for Puerto Rico, multiplied by the amount determined in subparagraph[1] 6333(a)(3) of this title.

(c) Weighted child count

(1) Fiscal years 1966 to 1998

(A) In general

The weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clause (i) or (ii), as follows:

(i) By percentage of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county constituting up to 12.20 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children constituting more than 12.20 percent, but

[1] So in original. Probably should be ''section''.

[2] So in original. Probably should be ''section 6333(a)(1)''.

not more than 17.70 percent, of such population, multiplied by 1.75;

(III) the number of such children constituting more than 17.70 percent, but not more than 22.80 percent, of such population, multiplied by 2.5;

(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

(V) the number of such children constituting more than 29.70 percent of such population, multiplied by 4.0.

(ii) By number of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title constituting up to 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

(B) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection[3] 6333(c) of this title multiplied by 1.72.

(2) Fiscal years after 1999

(A) In general

For each fiscal year beginning with fiscal year 1999 for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (i) and (ii), as follows:

(i) By percentage of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency constituting up to 14.265 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children constituting more than 14.265 percent, but not more than 21.553 percent, of such population, multiplied by 1.75;

(III) the number of such children constituting more than 21.553 percent, but not more than 29.223 percent, of such population, multiplied by 2.5;

(IV) the number of such children constituting more than 29.223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

(V) the number of such children constituting more than 36.538 percent of such population, multiplied by 4.0.

(ii) By number of children

This amount is determined by adding—

(I) the number of children determined under section 6333(c) of this title constituting up to 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

(B) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.72.

(d) Local educational agency allocations

For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 6333 of this title for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 6334 of this title) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 6333(c) of this title; or

(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal di-

[3] So in original. Probably should be ''section''.

rectly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

(e) State minimum

Notwithstanding any other provision of this section or subsection (b)(1) or (d) of section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(1) 0.25 percent of total appropriations; or

(2) the average of—

(A) one-quarter of 1 percent of the total amount available to carry out this section; and

(B) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(Pub. L. 89–10, title I, § 1125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3571.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6332, 6334, 6336, 6337 of this title.

§ 6336. Education finance incentive program

(a) Grants

The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) of this section to carry out the purposes of this part.

(b) Distribution based upon fiscal effort and equity

(1) In general

Funds appropriated pursuant to subsection (e) of this section shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—

(A) such State's effort factor described in paragraph (2); multiplied by

(B) 1.30 minus such State's equity factor described in paragraph (3),

except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) of this section for such fiscal year.

(2) Effort factor

(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) Equity factor

(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

(II) In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

(B) The equity factor for a State that meets the disparity standard described in section

222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding October 20, 1994) or a State with only one local educational agency shall be not greater than .10.

(C) The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

(c) Use of funds

All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 6333, 6334, and 6335 of this title to carry out activities under this part.

(d) Maintenance of effort

(1) In general

Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Reduction of funds

The Secretary shall reduce the amount of the of[1] funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waivers

The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(e) Authorization of appropriations

For the purpose of making grants under this section, there are authorized to be appropriated $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

(Pub. L. 89–10, title I, § 1125A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3575.)

CODIFICATION

October 20, 1994, referred to in subsec. (b)(3)(B), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–382, which enacted this section, to reflect the probable intent of Congress.

§ 6337. Special allocation procedures

(a) Allocations for neglected children

(1) In general

If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph 6333(c)(1)(C) of this title, the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 6333, 6334, and 6335 of this title that is attributable to such children.

(2) Special rule

If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

(b) Allocations among local educational agencies

The State educational agency may allocate the amounts of grants under sections 6333, 6334, and 6335 of this title among the affected local educational agencies—

(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

(c) Reallocation

If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 6333, 6334, and 6335 of this title is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

(Pub. L. 89–10, title I, § 1126, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6333 of this title.

§ 6338. Carryover and waiver

(a) Limitation on carryover

Notwithstanding section 1225 of this title or any other provision of law, not more than 15 per-

[1] So in original. The word ''of'' probably should not appear.

cent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

(b) Waiver

A State educational agency may, once every three years, waive the percentage limitation in subsection (a) of this section if—

(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

(2) supplemental appropriations for this subpart become available.

(c) Exclusion

The percentage limitation under subsection (a) of this section shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

(Pub. L. 89–10, title I, § 1127, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577.)

PART B—WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6302, 6661b, 6661d, 8852, 8857 of this title; title 25 section 2023; title 31 section 6703.

§ 6361. Statement of purpose

It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as ''Even Start''. The program shall—

(1) be implemented through cooperative projects that build on high quality existing community resources to create a new range of services;

(2) promote the academic achievement of children and adults;

(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards; and

(4) use instructional programs based on scientifically based reading research (as defined in section 6661a of this title) and the prevention of reading difficulties for children and adults, to the extent such research is available.

(Pub. L. 89–10, title I, § 1201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–328.)

AMENDMENTS

2000—Par. (1). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(b)(1)], inserted ''high quality'' after ''build on''.

Par. (2). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(b)(2)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''promote achievement of the National Education Goals; and''.

Par. (4). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(b)(3), (4)], added par. (4).

INDICATORS OF PROGRAM QUALITY

Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(n)], Dec. 21, 2000, 114 Stat. 2763, 2763A–334, provided that: ''Not later than 30 days after the date of the enactment of this Act [Dec. 21, 2000], the Secretary shall notify each State that receives funds under part B of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6361 et seq.] that to be eligible to receive fiscal year 2001 funds under part B, such State shall submit to the Secretary, not later than June 30, 2001, its indicators of program quality as described in section 1210 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6369a]. A State that fails to comply with this subsection shall be ineligible to receive funds under such part in subsequent years unless such State submits to the Secretary, not later than June 30 of the year in which funds are requested, its indicators of program quality as described in section 1210 of the Elementary and Secondary Education Act of 1965.''

§ 6362. Program authorized

(a) Reservation for migrant programs, outlying areas, and Indian tribes

(1) In general

For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 6302(b) of this title (or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

(A) children of migratory workers;

(B) the outlying areas; and

(C) Indian tribes and tribal organizations.

(2) Special rule

After December 21, 2000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

(3) Coordination of programs for American Indians

The Secretary shall ensure that programs under paragraph (1)(C) are coordinated with family literacy programs operated by the Bureau of Indian Affairs in order to avoid duplication and to encourage the dissemination of information on high quality family literacy programs serving American Indians.

(b) Reservation for Federal activities

(1) Evaluation, technical assistance, program improvement, and replication activities

From amounts appropriated under section 6302(b) of this title, the Secretary may reserve not more than 3 percent of such amounts for purposes of—

(A) carrying out the evaluation required by section 6369 of this title; and

(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(2) Research

In the case of fiscal years 2001 through 2004, if the amount appropriated under section 6302(b) of this title for any of such years—

(A) is equal to or less than the amounts appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multiyear activities carried out pursuant to section 6369b(b) of this title that began during or prior to the preceding fiscal year; or

(B) exceeds the amount appropriated for the preceding fiscal year, the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section 6369b(b) of this title.

(c) Reservation for grants

(1) Grants authorized

For any fiscal year for which at least one State applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 6302(b) of this title exceeds the amount appropriated under such section for the preceding fiscal year, the Secretary shall reserve, from the amount of such excess remaining after the application of subsection (b)(2) of this section, the amount of such remainder or $1,000,000, whichever is less, to award grants, on a competitive basis, to States to enable such States to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], the Head Start Act [42 U.S.C. 9831 et seq.], this part, part A of this subchapter, and part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]. No State may receive more than one grant under this subsection.

(2) Consortia

(A) Establishment

To receive a grant under this subsection, a State shall establish a consortium of State-level programs under the following laws:

(i) This subchapter (other than part D).

(ii) The Head Start Act.

(iii) The Adult Education and Family Literacy Act.

(iv) All other State-funded preschool programs and programs providing literacy services to adults.

(B) Plan

To receive a grant under this subsection, the consortium established by a State shall create a plan to use a portion of the State's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in such State.

(C) Coordination with part C of subchapter II

The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 6661b(d) of this title, if the State educational agency receives a grant under section 6661b of this title.

(3) Reading instruction

Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research (as such term is defined in section 6661a of this title).

(4) Technical assistance

The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to States receiving a grant under this subsection.

(5) Matching requirement

The Secretary shall not make a grant to a State under this subsection unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

(d) State allocation

(1) In general

From amounts appropriated under section 6302(b) of this title and not reserved under subsections (a), (b), and (c) of this section, the Secretary shall make grants to States from allocations under paragraph (2).

(2) Allocations

Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A of this subchapter to that State bears to the total amount allocated under that part to all the States.

(3) Minimum

No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section 6302(b) of this title and not reserved under subsections (a), (b), and (c) of this section for such year, whichever is greater.

(e) Definitions

For the purpose of this part—

(1) the term ''eligible entity'' means a partnership composed of both—

(A) a local educational agency; and

(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

(2) the term ''eligible organization'' means any public or private nonprofit organization with a record of providing effective services to

family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

(3) the terms ''Indian tribe'' and ''tribal organization'' have the meanings given such terms in section 450b of title 25; and

(4) the term ''State'' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, § 1202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 105–220, title II, § 251(b)(2)(A), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, § 101(f) [title VIII, §§ 201, 202], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, 2681–408; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, §§ 1604(c)–(e), 1606(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–329, 2763A–330, 2763A–334.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (c)(1), (2)(A)(iii), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(1), (2)(A)(ii), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(c)(1)(A)], inserted ''(or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount)'' after ''section 6302(b) of this title'' in introductory provisions.

Subsec. (a)(2). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(c)(1)(B)], substituted ''After December 21, 2000,'' for ''If the amount of funds made available under this subsection exceeds $4,600,000,''.

Subsec. (a)(3). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(c)(1)(C)], added par. (3).

Subsec. (b). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(c)(2)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''From amounts appropriated under section 6302(b) of this title, the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) of this section for the fiscal year 1994, whichever is greater, for purposes of—

''(1) carrying out the evaluation required by section 6369 of this title; and

''(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.''

Subsec. (c)(1). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(d)], substituted ''For any fiscal year for which at least one State applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 6302(b) of this title exceeds the amount appropriated under such section for the preceding fiscal year, the Secretary shall reserve, from the amount of such excess remaining after the application of subsection (b)(2) of this section, the amount of such remainder or $1,000,000, whichever is less, to award grants,'' for ''From funds reserved under section 6661i(b)(3) of this title, the Secretary shall award grants,'' and inserted at end ''No State may receive more than one grant under this subsection.''

Subsec. (d)(2). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(e)], substituted ''that part'' for ''that section''.

Subsec. (e)(3) to (5). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(1)], redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: ''the term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

''(A) Interactive literacy activities between parents and their children.

''(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

''(C) Parent literacy training that leads to economic self-sufficiency.

''(D) An age-appropriate education to prepare children for success in school and life experiences.''

1998—Subsec. (c). Pub. L. 105–277, § 101(f) [title VIII, § 201], amended subsec. (c) generally, substituting present provisions for former provisions which related: in par. (1), to grants authorized and, in par. (2), to matching requirement.

Pub. L. 105–220 substituted ''Adult Education and Family Literacy Act'' for ''Adult Education Act'' in par. (1).

Subsec. (e)(3) to (5). Pub. L. 105–277, § 202, added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6363, 6364, 6369, 6369b of this title.

§ 6363. State programs

(a) State level activities

Each State that receives a grant under section 6362(d)(1) of this title may use not more than a total of 6 percent of the grant funds for the costs of—

(1) administration, not to exceed half of such total;

(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b) of this section; and

(3) carrying out section 6369a of this title.

(b) Subgrants for local programs

(1) In general

Each State shall use the grant funds received under section 6362(d)(1) of this title and not reserved under subsection (a) of this section to award subgrants to eligible entities to carry out Even Start programs.

(2) Minimum subgrant amounts

(A) In general

Except as provided in subparagraphs (B) and (C), no State shall award a subgrant

under paragraph (1) in an amount less than $75,000.

(B) Subgrantees in ninth and succeeding years

No State shall award a subgrant under paragraph (1) in an amount less than $52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this part or its predecessor authority for the ninth (or any subsequent) fiscal year.

(C) Exception for single subgrant

A State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in accordance with subparagraphs (A) and (B), less than $75,000 is available to the State to award such subgrants.

(Pub. L. 89–10, title I, § 1203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3579; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 204(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(f), (g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(f)(1)], substituted ''a total of 6 percent'' for ''5 percent'' in introductory provisions.

Subsec. (a)(1). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(f)(2)], inserted '', not to exceed half of such total'' before semicolon at end.

Subsec. (b)(2). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(g)], amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''No State shall award a subgrant under paragraph (1) in an amount less than $75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of $75,000 or greater, less than $75,000 is available to the State to award such subgrants.''

1998—Subsec. (a)(3). Pub. L. 105–277 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6364 of this title.

§ 6364. Uses of funds

(a) In general

In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) Federal share limitation

(1) In general

(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

(ii) 80 percent in the second such year;

(iii) 70 percent in the third such year;

(iv) 60 percent in the fourth such year;

(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

(vi) 35 percent in any subsequent such year.

(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this chapter.

(2) Waiver

The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

(3) Prohibition

Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 6362(a)(1)(C) of this title demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

(c) Use of funds for family literacy services

(1) In general

From funds reserved under section 6363(a) of this title, a State may use a portion of such funds to assist eligible entities receiving a subgrant under section 6363(b) of this title in improving the quality of family literacy services provided under Even Start programs under this part, except that in no case may a State's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

(2) Priority

In carrying out paragraph (1), a State shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State under section 6369a of this title.

(3) Technical assistance to help local programs raise additional funds

In carrying out paragraph (1), a State may use the funds referred to in such paragraph to provide technical assistance to help local programs of demonstrated effectiveness to access and leverage additional funds for the purpose of expanding services and reducing waiting lists, including requesting and applying for non-Federal resources.

(4) Technical assistance and training

Assistance under paragraph (1) shall be in the form of technical assistance and training,

provided by a State through a grant, contract, or cooperative agreement with an entity that has experience in offering high quality training and technical assistance to family literacy providers.

(Pub. L. 89–10, title I, § 1204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2755(a)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 306(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(h)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(h)(1)], substituted ''family literacy services'' for ''family-centered education programs''.

Subsec. (c). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(h)(2)], added subsec. (c).

1999—Subsec. (b)(1)(A)(v), (vi). Pub. L. 106–113 added cls. (v) and (vi) and struck out former cl. (v) which read as follows: ''50 percent in any subsequent such year.''

1996—Subsec. (a). Pub. L. 104–134 inserted ''intensive'' after ''cost of providing''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6368 of this title.

§ 6365. Program elements

Each program assisted under this part shall—

(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counselling, other developmental and support services, and related services;

(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as—

(A) scheduling and locating of services to allow joint participation by parents and children;

(B) child care for the period that parents are involved in the program provided under this part; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

(4) include high-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this part, ensure that—

(A) not later than 4 years after December 21, 2000—

(i) a majority of the individuals providing academic instruction—

(I) shall have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary or secondary school education, or adult education; and

(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

(ii) the individual responsible for administration of family literacy services under this part has received training in the operation of a family literacy program; and

(iii) paraprofessionals who provide support for academic instruction have a high school diploma or its recognized equivalent; and

(B) beginning on December 21, 2000, all new personnel hired to provide academic instruction—

(i) have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary or secondary school education, or adult education; and

(ii) if applicable, meet qualifications established by the State for early childhood education, elementary or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

(6) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

(7) provide and monitor integrated instructional services to participating parents and children through home-based programs;

(8) operate on a year-round basis, including the provision of some program services, instructional and enrichment, during the summer months;

(9) be coordinated with—

(A) programs assisted under other parts of this subchapter and this chapter;

(B) any relevant programs under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.]; and

(C) the Head Start program, volunteer literacy programs, and other relevant programs;

(10) use instructional programs based on scientifically based reading research (as defined in section 6661a of this title) for children and adults, to the extent such research is available;

(11) encourage participating families to attend regularly and to remain in the program a sufficient time to meet their program goals;

(12) include reading readiness activities for preschool children based on scientifically based reading research (as defined in section 6661a of this title), to the extent available, to ensure children enter school ready to learn to read;

(13) if applicable, promote the continuity of family literacy to ensure that individuals retain and improve their educational outcomes[1]

(14) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

(15) provide for an independent evaluation of the program to be used for program improvement.

(Pub. L. 89–10, title I, § 1205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2755(b)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–220, title II, § 251(b)(2)(B), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(18)(A), (f)(13)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–331.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in par. (9)(B), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (9)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Workforce Investment Act of 1998, referred to in par. (9)(B), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

2000—Par. (5). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(3)], added par. (5). Former par. (5) redesignated (6).

Pars. (6), (7). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(2)], redesignated pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Par. (8). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(2), (4)], redesignated par. (7) as (8) and substituted ''and enrichment'' for ''or enrichment''. Former par. (8) redesignated (9).

Par. (9). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(2)], redesignated par. (8) as (9). Former par. (9) redesignated (14).

Pars. (10) to (13). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(5)], added pars. (10) to (13). Former par. (10) redesignated (15).

Par. (14). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(1)], redesignated par. (9) as (14).

Par. (15). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(5)], which directed amendment of par. (14) by substituting ''program to be used for program improvement.'' for ''program.'', was executed by making the substitution in par. (15), to reflect the probable intent of Congress.

Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(1)], redesignated par. (10) as (15).

1998—Par. (8)(B). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(13)(A)], struck out ''the Job Training Partnership Act and'' before ''title I of the Workforce Investment Act of 1998''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(18)(A)], substituted ''the Job Training Partnership Act and title I of the Workforce Investment Act of 1998'' for ''the Job Training Partnership Act''.

Pub. L. 105–220 substituted ''Adult Education and Family Literacy Act'' for ''Adult Education Act''.

1996—Par. (4). Pub. L. 104–134 inserted '', intensive'' after ''high-quality''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(18)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(13)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6367, 6368, 6369 of this title.

§ 6366. Eligible participants

(a) In general

Except as provided in subsection (b) of this section, eligible participants in an Even Start program are—

(1) a parent or parents—

(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.]; or

(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part, or who are attending secondary school; and

(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

(b) Eligibility for certain other participants

(1) In general

Family members of eligible participants described in subsection (a) of this section may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

(2) Special rule

Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or par-

[1] So in original. Probably should be followed by a semicolon.

ents become ineligible due to educational advancement, whichever occurs first; and

(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

(3) Children 8 years of age or older

If an Even Start program assisted under this part collaborates with a program under part A of this subchapter, and funds received under such part A program contribute to paying the cost of providing programs under this part to children 8 years of age or older, the Even Start program, notwithstanding subsection (a)(2) of this section, may permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.

(Pub. L. 89–10, title I, § 1206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3581; amended Pub. L. 105–220, title II, § 251(b)(2)(C), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(j)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(A), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(1)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(j)(1)], substituted ''part, or who are attending secondary school;'' for ''part;''.

Subsec. (b)(3). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(j)(2)], added par. (3).

1998—Subsec. (a)(1)(A). Pub. L. 105–220 substituted ''adult education and literacy activities under the Adult Education and Family Literacy Act'' for ''an adult basic education program under the Adult Education Act''.

§ 6367. Applications

(a) Submission

To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

(b) Required documentation

Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

(1) to develop, administer, and implement an Even Start program under this part; and

(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

(c) Plan

(1) In general

Such application shall also include a plan of operation and continuous improvement for the program which shall include—

(A) a description of the program objectives, strategies to meet such objectives, and how they are consistent with the program indicators established by the State;

(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 6365 of this title;

(C) a description of the population to be served and an estimate of the number of participants to be served;

(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

(E) a statement of the methods that will be used—

(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose;

(F) a description of how the plan is integrated with other programs under this chapter or other Acts, as appropriate, consistent with section 8856 of this title; and

(G) a description of how the plan provides for rigorous and objective evaluation of progress toward the program objectives described in subparagraph (A) and for continuing use of evaluation data for program improvement.

(2) Duration of the plan

Each plan submitted under paragraph (1) shall—

(A) remain in effect for the duration of the eligible entity's participation under this part; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) Consolidated application

The plan described in subsection (c)(1)(F) of this section may be submitted as part of a consolidated application under section 8852 of this title.

(Pub. L. 89–10, title I, § 1207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3582; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(k)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332.)

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(k)(1)(A)], inserted ''and continuous improvement'' after ''plan of operation'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(k)(1)(B)], substituted ''objectives, strategies to meet such objectives, and how they are consistent with the program indicators established by the State;'' for ''goals;''.

Subsec. (c)(1)(E). Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(k)(1)(C)], struck out ''and'' at end.

Subsec. (c)(1)(F). Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(k)(1)(D)], substituted ''chapter'' for ''chapter, the Goals 2000: Educate America Act,'' and ''; and'' for period at end.

Subsec. (c)(1)(G). Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(k)(1)(E)], added subpar. (G).

Subsec. (c)(2). Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(k)(2)], substituted ''(1)'' for ''(1)(A)'' in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6368 of this title.

§ 6368. Award of subgrants

(a) Selection process

(1) In general

The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

(A) are most likely to be successful in—

(i) meeting the purpose of this part; and

(ii) effectively implementing the program elements required under section 6365 of this title;

(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, such as a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A of this subchapter, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(C) provide services for at least a three-year age range, which may begin at birth;

(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

(E) include cost-effective budgets, given the scope of the application;

(F) demonstrate the applicant's ability to provide the non-Federal share required by section 6364(b) of this title;

(G) are representative of urban and rural regions of the State; and

(H) show the greatest promise for providing models that may be adopted by other family literacy projects and other local educational agencies.

(2) Priority for subgrants

The State educational agency shall give priority for subgrants under this subsection to applications that—

(A) target services primarily to families described in paragraph (1)(B); or

(B) are located in areas designated as empowerment zones or enterprise communities.

(3) Review panel

A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one individual with expertise in family literacy programs, and may include other individuals, such as one or more of the following:

(A) A representative of a parent-child education organization.

(B) A representative of a community-based literacy organization.

(C) A member of a local board of education.

(D) A representative of business and industry with a commitment to education.

(E) An individual who has been involved in the implementation of programs under this subchapter in the State.

(b) Duration

(1) In general

Subgrants under this part may be awarded for a period not to exceed four years.

(2) Startup period

The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

(3) Continuing eligibility

In awarding subgrant funds to continue a program under this part after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program referred to in section 6367(c)(1)(A) of this title and shall evaluate the program based on the indicators of program quality developed by the State under section 6369a of this title.

(4) Insufficient progress

The State educational agency may refuse to award subgrant funds if such agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 6369a of this title, after—

(A) providing technical assistance to the eligible entity; and

(B) affording the eligible entity notice and an opportunity for a hearing.

(5) Grant renewal

(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 6364(b) of this title.

(Pub. L. 89–10, title I, §1208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3583; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §204(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §306(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(*l*)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as

amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (a)(1)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(1)(A)], substituted ''such as a high'' for ''including a high'' and ''part A of this subchapter, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);'' for ''part A of this subchapter;''.

Subsec. (a)(1)(F). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(1)(B)], substituted ''non-Federal'' for ''Federal''.

Subsec. (a)(1)(H). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(1)(C)], inserted ''family literacy projects and other'' before ''local educational agencies''.

Subsec. (a)(3). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(1)(D)], in introductory provisions, substituted ''one individual with expertise in family literacy programs, and may include other individuals, such as one or more of the following:'' for ''one or more of the following individuals:''.

Subsec. (b)(3). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(2)(A)], added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''In awarding subgrant funds to continue a program under this part after the first year, the State educational agency shall review the progress of each eligible entity in meeting the goals of the program referred to in section 6367(c)(1)(A) of this title and shall evaluate the program based on the indicators of program quality developed by the State under section 6369a of this title.''

Subsec. (b)(5)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(*l*)(2)(B)], amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.''

1999—Subsec. (b)(3). Pub. L. 106–113, § 1000(a)(4) [title III, § 306(b)(1)], added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall evaluate the program based on the indicators of program quality developed by the State under section 6369a of this title. Such evaluation shall take place after the conclusion of the startup period, if any.''

Subsec. (b)(5)(A). Pub. L. 106–113, § 1000(a)(4) [title III, § 306(b)(2)], struck out at end ''An eligible recipient may receive funds under this part for a period not to exceed eight years.''

1998—Subsec. (b)(3). Pub. L. 105–277 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.''

Subsec. (b)(4). Pub. L. 105–277 amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.''

§ 6369. Evaluation

From funds reserved under section 6362(b)(1) of this title, the Secretary shall provide for an independent evaluation of programs assisted under this part—

(1) to determine the performance and effectiveness of programs assisted under this part;

(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

(3) to provide States and eligible entities receiving a subgrant under this part, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure local evaluations undertaken under section 6365(10)[1] of this title provide accurate information on the effectiveness of programs assisted under this part.

(Pub. L. 89–10, title I, § 1209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3584; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 203], Oct. 21, 1998, 112 Stat. 2681–337, 2681–408.)

REFERENCES IN TEXT

Section 6365(10) of this title, referred to in par. (3), was redesignated section 6365(15) by Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(i)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–331.

AMENDMENTS

1998—Par. (3). Pub. L. 105–277 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6362 of this title.

§ 6369a. Indicators of program quality

Each State receiving funds under this part shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this part. Such indicators shall be used to monitor, evaluate, and improve such programs within the State. Such indicators shall include the following:

(1) With respect to eligible participants in a program who are adults—

(A) achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;

(B) receipt of a high school diploma or a general equivalency diploma;

(C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

(D) such other indicators as the State may develop.

(2) With respect to eligible participants in a program who are children—

(A) improvement in ability to read on grade level or reading readiness;

(B) school attendance;

(C) grade retention and promotion; and

(D) such other indicators as the State may develop.

(Pub. L. 89–10, title I, § 1210, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 204(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409.)

PRIOR PROVISIONS

A prior section 1210 of Pub. L. 89–10 was renumbered section 1212 and is classified to section 6370 of this title.

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6363, 6364, 6368 of this title.

§ 6369b. Research

(a) In general

The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, to use—

(1) to improve the quality of existing programs assisted under this part or other family literacy programs carried out under this chapter or the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.]; and

(2) to develop models for new programs to be carried out under this chapter or the Adult Education and Family Literacy Act.

(b) Scientifically based research on family literacy

(1) In general

From amounts reserved under section 6362(b)(2) of this title, the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

(A) is scientifically based reading research (as defined in section 6661a of this title); and

(B) determines—

(i) the most effective ways of improving the literacy skills of adults with reading difficulties; and

(ii) how family literacy services can best provide parents with the knowledge and skills they need to support their children's literacy development.

(2) Use of expert entity

The National Institute for Literacy, in consultation with the Secretary, shall carry out the research under paragraph (1) through an entity, including a Federal agency, that has expertise in carrying out longitudinal studies of the development of literacy skills in children and has developed effective interventions to help children with reading difficulties.

(c) Dissemination

The National Institute for Literacy shall disseminate, pursuant to section 6661g of this title, the results of the research described in subsections (a) and (b) of this section to States and recipients of subgrants under this part.

(Pub. L. 89–10, title I, § 1211, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 205], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(m)], Dec. 21, 2000, 114 Stat. 2763, 2763A–333.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (a), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(m)(3)], added subsec. (b). Former subsec. (b) redesignated (c).

Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(m)(1)], substituted "subsections (a) and (b)" for "subsection (a)".

Subsec. (c). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(m)(2)], redesignated subsec. (b) as (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6362 of this title.

§ 6370. Construction

Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, § 1212, formerly § 1210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3584; renumbered § 1212, Pub. L. 105–277, div. A, § 101(f) [title VIII, § 204(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409.)

PART C—EDUCATION OF MIGRATORY CHILDREN

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070d–2, 3414, 6302, 6312, 6512, 8801, 8857, 8893 of this title.

§ 6391. Program purpose

It is the purpose of this part to assist States to—

(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

(5) ensure that migratory children benefit from State and local systemic reforms.

(Pub. L. 89–10, title I, § 1301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585.)

§ 6392. Program authorized

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

(Pub. L. 89–10, title I, § 1302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585.)

§ 6393. State allocations

(a) State allocations

Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e) of this section; multiplied by

(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

(b) Allocation to Puerto Rico

For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1) of this section; multiplied by

(2) the product of—

(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(c) Ratable reductions; reallocations

(1) In general

(A) If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

(2) Special rule

(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 6394 of this title.

(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(d) Consortium arrangements

(1) In general

In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) Proposals

Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) Approval

The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

(e) Determining numbers of eligible children

In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

(Pub. L. 89–10, title I, § 1303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6394, 6398 of this title.

§ 6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through

a comprehensive plan for needs assessment and service delivery that meets the requirements of section 6396 of this title;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the requirements of paragraph (1);

(6) such budgetary and other information as the Secretary may require; and

(7) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children who have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

(c) Assurances

Each such application shall also include assurances, satisfactory to the Secretary, that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 6396(b)(1) of this title; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 6314 of this title, subsections (b) and (d) of section 6315 of this title, section 6321 of this title, and subsections (b) and (c) of section 6322 of this title, and part F of this subchapter;

(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 6319 of this title;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A of this subchapter;

(6) to the extent feasible, such programs and projects will provide for—

(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) family literacy programs, including such programs that use models developed under Even Start;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

(7) the State will assist the Secretary in determining the number of migratory children under section 6393(e) of this title, through such procedures as the Secretary may require.

(d) Priority for services

In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

(e) Continuation of services

Notwithstanding any other provision of this part—

(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

(Pub. L. 89–10, title I, § 1304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3587; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1605], Dec. 21, 2000, 114 Stat. 2763, 2763A–334.)

AMENDMENTS

2000—Subsec. (b)(7). Pub. L. 106–554 added par. (7).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6393 of this title.

§ 6395. Secretarial approval; peer review

(a) Secretarial approval

The Secretary shall approve each State application that meets the requirements of this part.

(b) Peer review

The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

(Pub. L. 89–10, title I, § 1305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3588.)

§ 6396. Comprehensive needs assessment and service-delivery plan; authorized activities

(a) Comprehensive plan

(1) In general

Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with section 8856 of this title;

(B) may be submitted as a part of consolidated application under section 8852 of this title;

(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A of this subchapter, early childhood programs, and bilingual education programs under part A of subchapter VII of this chapter; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) Duration of the plan

Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Authorized activities

(1) In general

In implementing the comprehensive plan described in subsection (a) of this section, each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

(ii) are not addressed by services provided under other programs, including programs under part A of this subchapter; and

(B) all migratory children who are eligible to receive services under part A of this subchapter shall receive such services with funds provided under this part or under part A of this subchapter.

(2) Construction

Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(3) Special rule

Notwithstanding section 6314 of this title, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).

(Pub. L. 89–10, title I, § 1306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3589.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6394 of this title.

§ 6397. Bypass

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the welfare or educational attainment of such children.

(Pub. L. 89–10, title I, § 1307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590.)

§ 6398. Coordination of migrant education activities

(a) Improvement of coordination

(1) In general

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local

educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

(2) Duration

Grants under this subpart[1] may be awarded for not more than five years.

(b) Assistance and reporting

(1) Student records

(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

(2) Report to Congress

(A) Not later than April 30, 1995, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $6,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

(1) In general

From the amounts made available to carry out this section, the Secretary shall reserve not more than $1,500,000 to award, on a competitive basis, grants in the amount of not more than $250,000 to State educational agencies with consortium agreements under section 6393(d) of this title.

(2) Limitation

Not less than 10 of such grants shall be awarded to States which receive allocations of less than $1,000,000 if such States have approved agreements.

(Pub. L. 89–10, title I, § 1308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EXTENSION OF OPERATION OF MIGRANT STUDENT RECORD TRANSFER SYSTEM

Pub. L. 103–59, Aug. 2, 1993, 107 Stat. 281, provided that:

''(a) PROGRAM EXTENSION.—Notwithstanding any other provision of Federal law, the Secretary of Education shall extend the contract for the operation of the migrant student record transfer system under section 1203(a)(2)(A) of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2783(a)(2)(A)] to operate such system until such time as the Secretary of Education determines is necessary, but shall not extend such contract beyond June 30, 1995, without conducting a competition.

''(b) PROGRAM MODIFICATION.—Major modification of such system may be made only after consultation with the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Labor and Human Resources of the Senate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6393 of this title.

§ 6399. Definitions

As used in this part:

(1) Local operating agency

The term ''local operating agency'' means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

(2) Migratory child

The term ''migratory child'' means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(A) has moved from one school district to another;

(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(Pub. L. 89–10, title I, § 1309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591.)

[1] So in original. Probably should be ''this part''.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6302, 6312, 6315, 6362, 6512, 6603, 8852, 8857 of this title.

§ 6421. Findings; purpose; program authorized

(a) Findings

Congress finds the following:

(1) A large percentage of youth in the juvenile justice system have poor academic achievement, are a year or more behind grade level, and have dropped out of school.

(2) There is a strong correlation between academic failure and involvement in delinquent activities.

(3) Preventing students from dropping out of local schools and addressing the educational needs of delinquent youth can help reduce the dropout rate and involvement in delinquent activities at the same time.

(4) Many schools and correctional facilities fail to communicate regarding a youth's academic needs and students often return to their home school ill-prepared to meet current curriculum requirements.

(5) Schools are often reluctant to deal with youth returning from facilities and receive no funds to deal with the unique educational and other needs of such youth.

(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.

(b) Purpose

It is the purpose of this part—

(1) to improve educational services to children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet;

(2) to provide such children and youth the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

(c) Program authorized

In order to carry out the purpose of this part the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

(Pub. L. 89–10, title I, § 1401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591.)

§ 6422. Payments for programs under this part

(a) Agency subgrants

Based on the allocation amount computed under section 6432 of this title, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies.

(b) Local subgrants

Each State shall retain, for purposes of subpart 2 of this part, funds generated throughout the State under part A of this subchapter based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(c) Use of remaining funds

Each State shall use any funds remaining after allocations are made under subsection (a) of this section.

(Pub. L. 89–10, title I, § 1402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6452 of this title.

SUBPART 1—STATE AGENCY PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6333, 6471 of this title.

§ 6431. Eligibility

A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children—

(1) in institutions for neglected or delinquent children;

(2) attending community day programs for neglected or delinquent children; or

(3) in adult correctional institutions.

(Pub. L. 89–10, title I, § 1411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6432 of this title.

§ 6432. Allocation of funds

(a) Subgrants to State agencies

(1) In general

Each State agency described in section 6431 of this title (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

(A) the number of neglected or delinquent children and youth described in section 6431 of this title who—

(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

(ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children; or

(II) in community day programs for neglected or delinquent children; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Special rule

The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) Subgrants to State agencies in Puerto Rico

For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

(1) the number of children and youth counted under subsection (a)(1) of this section for the Commonwealth of Puerto Rico; multiplied by

(2) the product of—

(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(c) Ratable reductions in case of insufficient appropriations

If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) of this section is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

(Pub. L. 89–10, title I, § 1412, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6422 of this title.

§ 6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

(Pub. L. 89–10, title I, § 1413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3593.)

§ 6434. State plan and State agency applications

(a) State plan

(1) In general

Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with section 8856 of this title.

(2) Contents

Each such State plan shall—

(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

(C) contain assurances that the State educational agency will—

(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

(ii) carry out the evaluation requirements of section 6436 of this title;

(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(iv) provide such other information as the Secretary may reasonably require.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Secretarial approval; peer review

(1) In general

The Secretary shall approve each State plan that meets the requirements of this part.

(2) Peer review

The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

(c) State agency applications

Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

(1) describes the procedures to be used, consistent with the State plan under section 6311 of this title, to assess the educational needs of the children to be served;

(2) provides assurances that in making services available to youth in adult correctional

facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 6436 of this title are of high quality;

(6) describes how the agency will carry out the evaluation requirements of section 8941 of this title and how the results of the most recent evaluation are used to plan and improve the program;

(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 8891 of this title;

(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], vocational education programs, State and local dropout prevention programs, and special education programs;

(9) describes how appropriate professional development will be provided to teachers and other staff;

(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

(11) describes how the agency will,[1] endeavor to coordinate with businesses for training and mentoring for participating youth;

(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

(A) is identified as in need of special education services while the youth is in the facility; and

(B) intends to return to the local school;

(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

(18) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] or other comparable programs, if applicable.

(Pub. L. 89–10, title I, § 1414, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3593; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(18)(B), (f)(13)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431.)

[1] So in original. The comma probably should not appear.

References in Text

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (c)(8), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c)(18), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

Amendments

1998—Subsec. (c)(8). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(13)(B)], struck out "the Job Training Partnership Act or" before "title I of the Workforce Investment Act of 1998".

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(18)(B)], substituted "programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998" for "programs under the Job Training Partnership Act".

Effective Date of 1998 Amendment

Amendment by section 101(f) [title VIII, § 405(d)(18)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(13)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Section Referred to in Other Sections

This section is referred to in section 6435 of this title.

§ 6435. Use of funds

(a) In general

(1) Uses

A State agency shall use funds received under this subpart only for programs and projects that—

(A) are consistent with the State plan under section 6434(a) of this title; and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include the acquisition of equipment;

(B) shall be designed to support educational services that—

(i) except for institution-wide projects under section 6436 of this title, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

(iii) afford such children an opportunity to learn to such challenging State standards;

(C) shall be carried out in a manner consistent with section 6322 of this title and part F of this subchapter; and

(D) may include the costs of meeting the evaluation requirements of section 8941 of this title.

(b) Supplement, not supplant

A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 6322 of this title without regard to the subject areas in which instruction is given during those hours.

(Pub. L. 89–10, title I, § 1415, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3596.)

§ 6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the students will complete secondary school, attain secondary diploma or its recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess student progress;

(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

(Pub. L. 89–10, title I, § 1416, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3596.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6434, 6435 of this title.

§ 6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

(Pub. L. 89–10, title I, § 1417, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597.)

§ 6438. Transition services

(a) Transition services

Each State agency shall reserve not more than 10 percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

(b) Conduct of projects

A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

(c) Limitation

Any funds reserved under subsection (a) of this section shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

(d) Construction

Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) of this section from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, § 1418, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597.)

SUBPART 2—LOCAL AGENCY PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6332, 6422, 6471 of this title.

§ 6451. Purpose

The purpose of this subpart is to support the operation of local educational agency programs which involve collaboration with locally operated correctional facilities to—

(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

(Pub. L. 89–10, title I, § 1421, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3597.)

§ 6452. Programs operated by local educational agencies

(a) Local subgrants

With funds retained made available under section 6422(b) of this title, the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

(b) Special rule

A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

(c) Notification

A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

(Pub. L. 89–10, title I, § 1422, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6455 of this title.

§ 6453. Local educational agency applications

Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

(1) a description of the program to be assisted;

(2) a description of formal agreements between—

(A) the local educational agency; and

(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] and vocational education programs serving this at-risk population of youth;

(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable;

(11) as appropriate, a description of how schools will work with probation officers to

assist in meeting the needs of youth returning from correctional facilities;

(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

(Pub. L. 89–10, title I, § 1423, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(18)(C), (f)(13)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

AMENDMENTS

1998—Par. (9). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(13)(C)], struck out "the Job Training Partnership Act or" before "title I of the Workforce Investment Act of 1998".

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(18)(C)], substituted "programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998," for "programs under the Job Training Partnership Act".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(18)(C)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(13)(C)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

§ 6454. Uses of funds

Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

(Pub. L. 89–10, title I, § 1424, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599.)

§ 6455. Program requirements for correctional facilities receiving funds under this section

Each correctional facility entering into an agreement with a local educational agency under section 6452(a) of this title to provide services to youth under this section shall—

(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

(4) provide support programs which encourage youth who have dropped out to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

(6) ensure educational programs in correctional facilities are related to assisting students meet high educational standards;

(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds made available under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], and vocational education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable; and

(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

(Pub. L. 89–10, title I, § 1425, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(18)(D), (f)(13)(D)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

AMENDMENTS

1998—Par. (9). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(13)(D)], struck out ''the Job Training Partnership Act or'' before ''title I of the Workforce Investment Act of 1998''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(18)(D)], substituted '', such as funds made available under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998'' for '', such as funds under the Job Training Partnership Act''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(18)(D)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(13)(D)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

§ 6456. Accountability

The State educational agency may—

(1) reduce or terminate funding for projects under this section[1] if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

(2) require juvenile facilities to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

(Pub. L. 89–10, title I, § 1426, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600.)

SUBPART 3—GENERAL PROVISIONS

§ 6471. Program evaluations

(a) Scope of evaluation

Each State agency or local educational agency that conducts a program under subpart 1 or 2 of this part shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

(1) maintain and improve educational achievement;

(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

(3) make the transition to a regular program or other education program operated by a local educational agency; and

(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

(b) Evaluation measures

In conducting each evaluation under subsection (a) of this section, a State agency or local educational agency shall use multiple and appropriate measures of student progress.

(c) Evaluation results

Each State agency and local educational agency shall—

(1) submit evaluation results to the State educational agency; and

(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

(Pub. L. 89–10, title I, § 1431, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600.)

§ 6472. Definitions

For the purpose of this part:

(1) The term ''adult correctional institution'' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

(2) The term ''at-risk youth'' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

(3) The term ''community day program'' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children.

(4) The term ''institution for delinquent children and youth'' means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

(5) The term ''institution for neglected children'' means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

(Pub. L. 89–10, title I, § 1432, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601.)

PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS

§ 6491. Evaluations

(a) National assessment

(1) In general

The Secretary shall conduct a national assessment of programs assisted under this subchapter, in coordination with the ongoing National Evaluation under subsection (b) of this section that shall be planned, reviewed, and

[1] So in original. Probably should be ''subpart''.

conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

(2) Examination

The assessment shall examine how well schools, local educational agencies, and States are—

(A) progressing toward the goal of all children served under this subchapter reaching the State's challenging State content standards and challenging State student performance standards; and

(B) accomplishing the purpose set forth in section 6301(d) of this title to achieve the goal described in paragraph (1), including—

(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this subchapter and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

(ii) providing children served under this subchapter an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

(iii) promoting schoolwide reform and access for all children served under this subchapter to effective instructional strategies and challenging academic content;

(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

(v) coordinating services provided under all parts of this subchapter with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

(vi) affording parents of children served under this subchapter meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

(vii) distributing resources to areas where needs are greatest;

(viii) improving accountability, as well as teaching and learning, by making assessments under this subchapter congruent with State assessment systems; and

(ix) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

(3) NAEP information

Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

(4) Interim and final reports

The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1999.

(b) Studies and data collection

(1) In general

The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this subchapter and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families.

(2) Minimum information

At a minimum, the Secretary shall collect trend information on the effect of programs under this subchapter. Such data shall complement the data collected and reported under subsections (a) and (c) of this section.

(c) National evaluation of part A of this subchapter

(1) In general

The Secretary shall carry out an ongoing evaluation of the program assisted under part A of this subchapter in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

(B) be separate and independent from State and local assessments and evaluations as required under this subchapter;

(C) utilize the highest available content standards that are generally accepted as national in scope;

(D) provide information on all students, students served under part A of this subchapter, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

(2) Use

The Secretary shall use the results of the evaluation described in paragraph (1) as part

of the national assessment required by subsection (a) of this section and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4) of this section.

(d) Developmentally appropriate measures

In conducting the national assessment under subsection (a) of this section and the national ongoing evaluation under subsection (c) of this section, the Secretary shall use developmentally appropriate measures to assess student performance and progress.

(e) Parental involvement, study, report and dissemination

(1) In general

The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

(A) common barriers to effective parental involvement in the education of participating children; and

(B) successful local policies and programs which improve parental involvement and the performance of participating children.

(2) Duties of Secretary

The Secretary shall—

(A) complete such study by December 31, 1996;

(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate; and

(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.

(Pub. L. 89–10, title I, § 1501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–18, title VI, § 60002, June 12, 1997, 111 Stat. 214.)

AMENDMENTS

1997—Subsec. (a)(4). Pub. L. 105–18 substituted ''January 1, 1999'' for ''January 1, 1998''.

1996—Subsec. (a)(2)(B)(v) to (x). Pub. L. 104–134 redesignated cls. (vi) to (x) as (v) to (ix), respectively, and struck out former cl. (v) which read as follows: ''using and evaluating the usefulness of opportunity-to-learn standards or strategies in improving learning in schools receiving assistance under this part;''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

§ 6492. Demonstrations of innovative practices

(a) Demonstration programs to improve achievement

(1) In general

From the funds appropriated for any fiscal year under section 6302(g)(2) of this title, the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this subchapter to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

(C) effective approaches to whole school reform;

(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

(E) programs which are especially effective in recruiting, inducting, and retaining highly qualified teachers for service in schools with low student achievement; and

(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other compentencies[1] in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.

(2) Evaluation

The Secretary shall evaluate the demonstration projects supported under this subchapter, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

[1] So in original.

(b) Partnerships

From funds appropriated under section 6302(g)(2) of this title for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this subchapter.

(Pub. L. 89–10, title I, § 1502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3604.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

§ 6493. Repealed. Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section, Pub. L. 89–10, title I, § 1503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3605, related to innovative elementary school transition projects.

PART F—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6394, 6435 of this title.

§ 6511. Federal regulations

(a) In general

The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is compliance with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Prior to publishing in the Federal Register proposed regulations to carry out this subchapter, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

(3) Proposed regulations

After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on a minimum of two key issues, including—

(i) schoolwide programs; and

(ii) standards and assessment;

(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (A) not less than 15 days prior to the first meeting under such process.

(4) Process

Such process—

(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than July 1, 1995; and

(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

(5) Emergency situation

In an emergency situation in which regulations to carry out this subchapter must be issued with a very limited time to assist State and local educational agencies with the operation of a program under this subchapter, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

(c) Limitation

Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(Pub. L. 89–10, title I, § 1601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3609.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Negotiated Rulemaking Act of 1990, referred to in subsec. (b)(4)(B), is Pub. L. 101–648, Nov. 29, 1990, 104 Stat. 4969, which enacted subchapter III (§ 561 et seq.) of chapter 5 of Title 5 and provisions set out as notes under section 561 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 561 of Title 5 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8941 of this title.

§ 6512. Coordination of Federal, State, and local administration

(a) Program assistance manual

The Secretary shall, not later than six months after the publication of final regulations under this subchapter, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D of this subchapter, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this subchapter to—

(1) assist such agencies in—

(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this subchapter;

(B) applying for program funds under this subchapter; and

(C) meeting the program objectives under this subchapter;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this subchapter;

(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this subchapter; and

(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this subchapter, uniformly interpret, apply, and enforce requirements under this subchapter throughout the United States.

(b) Contents of policy manual

The policy manual shall, with respect to programs carried out under this subchapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required under section 552 of title 5 to be published or made available. The manual shall include—

(1) a statement of the requirements applicable to the programs carried out under this subchapter, including such requirements contained in this subchapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.], other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this subchapter.

(c) Response to inquiries

The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this subchapter is received. In the case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

(Pub. L. 89–10, title I, § 1602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3610.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(1), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 6513. State administration

(a) Rulemaking

(1) In general

Each State that receives funds under this subchapter shall—

(A) ensure that any State rules, regulations, and policies relating to this subchapter conform to the purposes of this subchapter and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) of this section for their review and comment;

(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

(C) identify any such rule, regulation, or policy as a State-imposed requirement.

(2) Support and facilitation

State rules, regulations, and policies under this subchapter shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State content standards and challenging State student performance standards.

(b) Committee of practitioners

(1) In general

Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this subchapter.

(2) Membership

Each such committee shall include—

(A) as a majority of its members, representatives from local educational agencies;

(B) administrators;

(C) teachers, including vocational educators;

(D) parents;

(E) members of local boards of education;

(F) representatives of private school children; and

(G) pupil services personnel.

(3) Duties

The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this subchapter. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this subchapter, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

(c) Payment for State administration

Each State may reserve for the proper and efficient performance of its duties under this subchapter the greater of—

(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 6302 of this title; or

(2) $400,000, or $50,000 in the case of the outlying areas.

(Pub. L. 89–10, title I, § 1603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3611.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6318, 8824 of this title.

§ 6514. Construction

(a) Prohibition of Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this subchapter.

(b) Equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(c) Building standards

Nothing in this subchapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89–10, title I, § 1604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612.)

SUBCHAPTER II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2344, 6320, 7472, 8293, 8332, 8801, 8857, 8893 of this title.

§ 6601. Findings

The Congress finds as follows:

(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services personnel, and parents, are partners in the development and implementation of such professional development; and

(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

(6) Professional development is often a victim of budget reductions in fiscally difficult times.

(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

(Pub. L. 89–10, title II, § 2001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612.)

§ 6602. Purposes

The purposes of this subchapter are to provide assistance to State and local educational agencies and to institutions of higher education with teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content standards and challenging State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

(2) helping to ensure that teachers, and, where appropriate, administrators, other staff,

pupil services personnel, and parents, have access to professional development that—

(A) is tied to challenging State content standards and challenging State student performance standards;

(B) reflects recent research on teaching and learning;

(C) includes strong academic content and pedagogical components;

(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

(Pub. L. 89–10, title II, § 2002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3613.)

§ 6603. Authorization of appropriations; allocation between parts

(a) Authorization of appropriations

For the purpose of carrying out this subchapter (other than part C), there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Allocation between parts

Of the amounts appropriated to carry out this subchapter for any fiscal year, the Secretary shall make available—

(1) 5 percent of such amounts to carry out subpart 1,[1] of which 5 percent of such 5 percent shall be available to carry out section 6623 of this title;

(2) 94 percent of such amounts to carry out part B of this subchapter; and

(3) 1 percent of such amounts to carry out part D of this subchapter except that such 1 percent shall not exceed $3,200,000 in any fiscal year.

(Pub. L. 89–10, title II, § 2003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, § 101(f) [title VIII, § 101(b)(1)(A)], substituted ''subchapter (other than part C)'' for ''subchapter''.

Subsec. (b)(3). Pub. L. 105–277, § 101(f) [title VIII, § 101(b)(1)(B)], substituted ''part D'' for ''part C''.

PART A—FEDERAL ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6212, 6303 of this title.

[1] So in original. Probably should be ''part A,''.

§ 6621. Program authorized

(a) In general

The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

(2) evaluate activities carried out under this part and parts B and C[1] of this subchapter, in accordance with section 8941 of this title.

(b) Requirements

In carrying out the activities described in subsection (a) of this section, the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and other appropriate Federal agencies and entities.

(Pub. L. 89–10, title II, § 2101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

Part C of this subchapter, referred to in subsec. (a)(2), was redesignated part D of this subchapter and a new part C added by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6622 of this title.

§ 6622. Authorized activities

(a) Activities

The Secretary shall use funds available to carry out this part for—

(1) providing seed money to the entities described in section 6621(a) of this title to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the ''Clearinghouse''); and

[1] See References in Text note below.

(3) evaluating programs assisted under this part and parts B and C[1] of this subchapter, in accordance with section 8941 of this title.

(b) Clearinghouse

(1) Application and award basis

Each entity desiring to establish and operate the Clearinghouse authorized by subsection (a)(2) of this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) of this section shall be made on a competitive, merit basis.

(2) Duration

The grant or contract awarded under subsection (a)(2) of this section shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

(3) Use of funds

The grant or contract awarded under subsection (a)(2) of this section shall be used to—

(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of subchapter XIII of this chapter and by the general public;

(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of subchapter XIII of this chapter;

(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of subchapter XIII of this chapter to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more than 3 percent of the funds awarded under subsection (a)(2) of this section shall be used to carry out this subparagraph; and

(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

(4) Submission to Clearinghouse

Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

(5) Peer review

The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2) of this section.

(6) Steering committee

The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

(7) Application of copyright laws

Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17.

(8) Dissemination of information

The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

(c) Uses of funds

The Secretary may use funds available to carry out this part for—

(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemination Demonstration Program under section 6041(j)[2] of this title, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

[1] See References in Text note below.

[2] See References in Text note below.

(5) the development and dissemination of model teaching standards in the core academic subjects;

(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

(7) the dissemination of information about voluntary national content standards, State content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

(11) supporting the National Board for Professional Teaching Standards;

(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

(Pub. L. 89–10, title II, § 2102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3615.)

REFERENCES IN TEXT

Part C of this subchapter, referred to in subsec. (a)(3), was redesignated part D of this subchapter and a new part C added by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391.

Section 6041(j) of this title, referred to in subsec. (c)(3), was repealed by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8672 of this title.

§ 6623. National Teacher Training Project

(a) Short title; findings; definitions

(1) Short title

This section may be cited as the ''National Teacher Training Project Act of 1994''.

(2) Findings

The Congress finds that—

(A) teachers must be major players in educational reform in the United States;

(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

(C) there is a shortage of sustained, year-round professional development programs for teachers;

(D) successful teaching methods are not adequately shared among teachers;

(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

(G) pertinent research is not shared among teachers in a professional setting;

(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of the 155 sites located within the United States, and in 18 sites located outside of the United States;

(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

(3) Definitions

For the purpose of this section—

(A) the term ''contractor'' means—

(i) a local educational agency;

(ii) an educational service agency; or

(iii) an institution of higher education that awards a bachelor's degree; and

(B) the term ''eligible recipient'' means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2) of this section.

(b) Grants authorized

(1) Grants to eligible recipients

The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

(B) to support classroom research on effective teaching practices in such area; and

(C) to pay the Federal share of the cost of such programs and research.

(2) Core subject areas

To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

(A) Mathematics.

(B) Science.

(C) English.

(D) Civics and government.

(E) Foreign languages.

(F) Arts.

(G) Geography.

(H) History.

(I) Economics.

(3) Number of grants and eligible recipients

The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

(4) Equitable distribution

The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

(5) Special rule

Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

(6) Administrative costs and technical assistance

Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

(c) Grant requirements

Each eligible recipient receiving a grant under subsection (b) of this section shall—

(1) enter into a contract with a contractor under which such contractor agrees—

(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

(d) Teacher training programs

The teacher training programs described in subsection (b) of this section shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

(4) use teacher training principles and receive technical assistance from the National Writing Project; and

(5) encourage teachers from all disciplines to participate in such teacher training programs.

(e) Federal share

The term ''Federal share'' means, with respect to the costs of teacher training programs de-

scribed in subsection (b) of this section, 50 percent of such costs to the contractor.

(f) Application

Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(g) Participants and selection process

The selection process for participation in a teacher training program described in subsection (b) of this section shall—

(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

(2) involve an application process to select participants for a summer program;

(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban, and suburban settings in each State; and

(4) automatically offer a place in a summer program to the ''Teacher of the Year'' chosen pursuant to a Federal or State teacher recognition program.

(h) Limitation

A contractor entering into a contract under subsection (c)(1) of this section shall not spend more than 5 percent of funds received under the contract for administrative costs.

(Pub. L. 89–10, title II, § 2103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3617.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6603, 8801, 8893 of this title.

PART B—STATE AND LOCAL ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5891b, 6603, 6621, 6622 of this title.

§ 6641. Program authorized

The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development activities in the core academic subjects at the State and local levels.

(Pub. L. 89–10, title II, § 2201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

§ 6642. Allocation of funds

(a) Reservation of funds

From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

(b) State allocations

The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) of this section to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than ½ of 1 percent of such amount:

(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of subchapter I of this chapter for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

(c) Reallocation

If any jurisdiction does not apply for an allotment under subsection (b) of this section for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

(Pub. L. 89–10, title II, § 2202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6646 of this title.

§ 6643. Within-State allocations

Of the amounts received by a State under this part for any fiscal year—

(1) 84 percent shall be available for local allowable activities under section 6650(b) of this title, of which—

(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 6647 of this title; and

(B) of the remaining amount—

(i) 50 percent shall be distributed to local educational agencies—

(I) for use in accordance with section 6650 of this title; and

(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

(ii) 50 percent of such amount shall be distributed to local educational agencies—

(I) for use in accordance with section 6650 of this title; and

(II) in accordance with the relative amount such agencies received under part A of subchapter I of this chapter or for fiscal year 1995 for the preceding fiscal year, such part's predecessor authority; and

(2) 16 percent shall be available to the State agency for higher education for activities under section 6651 of this title, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

(Pub. L. 89–10, title II, § 2203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6646, 6647, 6651 of this title.

§ 6644. Consortium requirement

(a) In general

A local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

(b) Waiver

The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

(c) Special rule

Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a) of this section.

(Pub. L. 89–10, title II, § 2204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6648 of this title.

§ 6645. State applications

(a) Applications required

Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(b) State plan to improve teaching and learning

(1) In general

Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, consistent with the provisions of section 8856 of this title.

(2) Contents

Each such State plan shall—

(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of subchapter I of this chapter;

(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of subchapter I of this chapter, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such individuals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

(J) describe how the State will prepare all teachers to teach children with diverse

learning needs, including children with disabilities;

(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with challenging State content standards and challenging State student performance standards;

(N) set specific performance indicators for professional development; and

(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(c) Additional material

Each State application shall include—

(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

(A) other activities conducted with Federal funds, especially activities supported under part A of subchapter I of this chapter and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(B) programs supported by State and local funds;

(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum and Library Services, and the National Endowment for the Humanities; and

(2) a description of the activities to be sponsored under the State-level activities under section 6647 of this title and the higher education activities under section 6651 of this title.

(d) Peer review and secretarial approval

(1) In general

The Secretary shall approve an application of a State educational agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

(2) Review

In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

(Pub. L. 89–10, title II, § 2205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (c)(1)(D). Pub. L. 104–208 substituted "the Institute of Museum and Library Services" for "the Institute of Museum Services".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6647 of this title.

§ 6646. Priority for professional development in mathematics and science

(a) Appropriation of less than $250,000,000

In any fiscal year for which the amount appropriated for this subchapter (other than part C) is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 6643(1)(C)[1] of this title are used for professional development in mathematics and science.

(b) Appropriation equal to or above $250,000,000

In any fiscal year for which the amount appropriated for this subchapter (other than part C) is equal to or exceeds $250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 6642 and 6643 of this title if the amount appropriated was $250,000,000, consistent with subsection (a) of this section, and are permitted and encouraged to use the amount of funds in excess of $250,000,000 that is made available in accordance with sections 6642 and 6643 of this title for professional development activities in mathematics and science.

(Pub. L. 89–10, title II, § 2206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625; amended Pub. L. 105–277, div. A, § 101(f) [title

[1] So in original. Probably should be section "6643(1)(B)".

VIII, § 101(b)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406.)

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–277 inserted ''(other than part C)'' after ''for this subchapter''.

§ 6647. State-level activities

Each State may use funds made available under section 6643(1)(A) of this title to carry out activities described in the plan under section 6645(b) of this title, such as—

(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that receive assistance under part A of subchapter I of this chapter, to help such schools and agencies provide effective professional development in the core academic subjects;

(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects; and

(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools.

(Pub. L. 89–10, title II, § 2207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6643, 6645 of this title.

§ 6648. Local plan and application for improving teaching and learning

(a) Local application

(1) In general

Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 6644 of this title) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or other Acts, as appropriate, consistent with the provisions of section 8856 of this title.

(2) Indicators

A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

(b) Needs assessment

(1) In general

A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

(2) Requirements

Such needs assessment shall be carried out with the involvement of teachers, including

teachers in schools receiving assistance under part A of subchapter I of this chapter, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

(c) Application contents

Each application under this section shall include the local educational agency's plan for professional development that—

(1) focuses on teaching and learning in the core academic subjects; and

(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of subchapter I of this chapter.

(d) Plan contents

(1) In general

Based on the needs assessment required under subsection (b) of this section, the local educational agency's plan shall—

(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of subchapter I of this chapter;

(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b) of this section;

(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

(H) describe how the program funded under this part will be coordinated, as appropriate, with—

(i) activities conducted under section 2131[1] and other services of institutions of higher education;

(ii) similar State and local activities;

(iii) resources provided under part A of subchapter I of this chapter and other provisions of this chapter;

(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum and Library Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

(vi) services of educational service agencies; and

(vii) resources provided under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(I) identify the sources of funding that will provide the local educational agency's contribution under section 6649 of this title; and

(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

(2) Duration of the plan

Each local plan described in subsection (b)(1) of this section shall—

(A) remain in effect for the duration of the local educational agency's participation under this part; and

(B) be periodically reviewed and revised by the local educational agency, as necessary, to reflect changes in the local educational agency's strategies and programs under this part.

(Pub. L. 89–10, title II, § 2208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3626; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

Section 2131, referred to in subsec. (d)(1)(H)(i), means section 2131 of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10. However, Pub. L. 89–10, which is classified to this chapter, does not contain a section 2131. See section 2211 of Pub. L. 89–10 which is classified to section 6651 of this title.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(1)(H)(vii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

[1] See References in Text note below.

AMENDMENTS

1996—Subsec. (d)(1)(H)(v). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6650 of this title.

§ 6649. Local cost-sharing

(a) In general

Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

(b) Available resources for cost-sharing

(1) In general

A local educational agency may meet the requirement of subsection (a) of this section through one or more of the following:

(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

(B) Release time for teachers participating in professional development assisted under this part.

(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

(i) Helping disadvantaged children meet high standards under part A of subchapter I of this chapter.

(ii) The Safe and Drug-Free Schools and Communities program under subchapter IV of this chapter.

(iii) Bilingual Education Programs under part A of subchapter VII of this chapter.

(iv) Programs under the Women's Educational Equity Act of 1994 [20 U.S.C. 7231 et seq.].

(v) Programs under title III[1] of the Goals 2000: Educate America Act.

(vi) Programs that are related to the purposes of this chapter that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum and Library Services, and the Department of Energy.

(vii) Programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(2) Special rule

A local educational agency may meet the requirement of subsection (a) of this section through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

(c) Waiver

The State educational agency may approve an application which has not fully met the requirements of subsection (a) of this section and waive the requirements of subsection (a) of this section if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) of this section due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

(Pub. L. 89–10, title II, § 2209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3628; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Women's Educational Equity Act of 1994, referred to in subsec. (b)(1)(C)(iv), is part B (§§ 5201–5208) of title V of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, which is classified generally to part B (§ 7231 et seq.) of subchapter V of this chapter. For complete classification of this Act to the Code, see section 7231 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(C)(v), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(C)(vii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(C)(vi). Pub. L. 104–208, which directed the amendment of subsec. (b)(1)(C)(iv) by substituting ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services'', was executed to subsec. (b)(1)(C)(vi) of this section to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6648 of this title.

§ 6650. Local allocation of funds and allowable activities

(a) Local allocation of funds

Each local educational agency that receives funds under this part for any fiscal year—

(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

(A) is determined by such teachers and staff;

(B) to the extent practicable, takes place at the individual school site; and

(C) is consistent with the local educational agency's application under section 6648 of this title, any school plan under part A of subchapter I of this chapter, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

[1] See References in Text note below.

(2) may use not more than 20 percent of such funds for school district-level professional development activities, including, where appropriate, the participation of administrators, policymakers, and parents, if such activities directly support instructional personnel.

(b) Authorized activities

(1) In general

Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

(2) Professional development activities

Professional development activities funded under this part shall—

(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

(B) take into account recent research on teaching and learning;

(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

(D) include strong academic content and pedagogical components; and

(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

(3) Activities

Funds under this part may be used for professional development activities such as—

(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

(G) professional development to enable teachers, and, where appropriate, pupil services personnel and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

(H) professional development and recruitment activities designed—

(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

(Q) release time with pay for teachers.

(Pub. L. 89–10, title II, § 2210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3629.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6643, 8293, 8294 of this title.

§ 6651. Higher education activities

(a) Activities

(1) In general

From amounts made available under section 6643(2) of this title, the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

(B) developing and providing assistance to local educational agencies, and the teachers and staff of each such agency, for sustained, high-quality professional development activities; and

(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

(2) Competitive basis

Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

(3) Special rule

No institution of higher education may receive assistance under (a)(1)[1] of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

(4) Joint efforts

Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

(b) Allowable activities

A recipient of funds under this section shall use such funds for—

(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

(3) preservice training activities.

(c) Partnerships

Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

(Pub. L. 89–10, title II, § 2211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3632.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6643, 6645 of this title.

PART C—READING AND LITERACY GRANTS

PRIOR PROVISIONS

A prior part C, consisting of sections 6671 to 6676, was redesignated part D by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6362, 6603, 6646, 6701, 6702 of this title.

§ 6661. Purposes

The purposes of this part are as follows:

(1) To provide children with the readiness skills they need to learn to read once they enter school.

(2) To teach every child to read in the child's early childhood years—

(A) as soon as the child is ready to read; or

(B) as soon as possible once the child enters school, but not later than 3d grade.

(3) To improve the reading skills of students, and the instructional practices for current teachers (and, as appropriate, other instructional staff) who teach reading, through the

[1] So in original. Probably should be "paragraph (1)".

use of findings from scientifically based reading research, including findings relating to phonemic awareness, systematic phonics, fluency, and reading comprehension.

(4) To expand the number of high-quality family literacy programs.

(5) To provide early literacy intervention to children who are experiencing reading difficulties in order to reduce the number of children who are incorrectly identified as a child with a disability and inappropriately referred to special education.

(Pub. L. 89–10, title II, § 2251, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391.)

§ 6661a. Definitions

For purposes of this part:

(1) Eligible professional development provider

The term ''eligible professional development provider'' means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.

(2) Instructional staff

The term ''instructional staff''—

(A) means individuals who have responsibility for teaching children to read; and

(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

(3) Reading

The term ''reading'' means a complex system of deriving meaning from print that requires all of the following:

(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

(B) The ability to decode unfamiliar words.

(C) The ability to read fluently.

(D) Sufficient background information and vocabulary to foster reading comprehension.

(E) The development of appropriate active strategies to construct meaning from print.

(F) The development and maintenance of a motivation to read.

(4) Scientifically based reading research

The term ''scientifically based reading research''—

(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) shall include research that—

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(Pub. L. 89–10, title II, § 2252, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–392; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(2)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335.)

AMENDMENTS

2000—Pars. (2) to (5). Pub. L. 106–554 redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2), which defined the term ''family literacy services''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6361, 6362, 6365, 6369b of this title.

§ 6661b. Reading and literacy grants to State educational agencies

(a) Program authorized

(1) In general

Subject to the provisions of this part, the Secretary shall award grants to State educational agencies to carry out the reading and literacy activities authorized under this section and sections 6661c through 6661e of this title.

(2) Limitations

(A) Single grant per State

A State educational agency may not receive more than one grant under paragraph (1).

(B) 3-year term

A State educational agency that receives a grant under paragraph (1) may expend the funds provided under the grant only during the 3-year period beginning on the date on which the grant is made.

(b) Application

(1) In general

A State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in paragraph (2).

(2) Contents

An application under this subsection shall contain the following:

(A) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d) of this section, and a description of how such partnership—

(i) assisted in the development of the State plan;

(ii) will be involved in advising on the selection of subgrantees under sections 6661d and 6661e of this title; and

(iii) will assist in the oversight and evaluation of such subgrantees.

(B) A description of the following:

(i) How the State educational agency will ensure that professional development activities related to reading instruction and provided under this part are—

(I) coordinated with other State and local level funds and used effectively to improve instructional practices for reading; and

(II) based on scientifically based reading research.

(ii) How the activities assisted under this part will address the needs of teachers and other instructional staff, and will effectively teach students to read, in schools receiving assistance under section[1] 6661d and 6661e of this title.

(iii) The extent to which the activities will prepare teachers in all the major components of reading instruction (including phonemic awareness, systematic phonics, fluency, and reading comprehension).

(iv) How the State educational agency will use technology to enhance reading and literacy professional development activities for teachers, as appropriate.

(v) How parents can participate in literacy-related activities assisted under this part to enhance their children's reading.

(vi) How subgrants made by the State educational agency under sections 6661d and 6661e of this title will meet the requirements of this part, including how the State educational agency will ensure that subgrantees will use practices based on scientifically based reading research.

(vii) How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

(viii) The process that the State used to establish the reading and literacy partnership described in subsection (d) of this section.

(C) An assurance that each local educational agency to which the State educational agency makes a subgrant—

(i) will provide professional development for the classroom teacher and other appropriate instructional staff on the teaching of reading based on scientifically based reading research;

(ii) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of subchapter I of this chapter, to enable parents to be their child's first and most important teacher;

(iii) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

(iv) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading.

(D) An assurance that instruction in reading will be provided to children with reading difficulties who—

(i) are at risk of being referred to special education based on these difficulties; or

(ii) have been evaluated under section 614 of the Individuals with Disabilities Education Act [20 U.S.C. 1414] but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of the such[2] Act [20 U.S.C. 1401]).

(E) A description of how the State educational agency—

(i) will build on, and promote coordination among, literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.] and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the programs;

(ii) will promote reading and library programs that provide access to engaging reading material;

(iii) will make local educational agencies described in sections 6661d(a)(1) and 6661e(a)(1) of this title aware of the availability of subgrants under sections 6661d and 6661e of this title; and

(iv) will assess and evaluate, on a regular basis, local educational agency activities assisted under this part, with respect to whether they have been effective in achieving the purposes of this part.

(F) A description of the evaluation instrument the State educational agency will use for purposes of the assessments and evaluations under subparagraph (E)(iv).

(c) Approval of applications

(1) In general

The Secretary shall approve an application of a State educational agency under this section only—

(A) if such application meets the requirement of this section; and

(B) after taking into account the extent to which the application furthers the purposes of this part and the overall quality of the application.

(2) Peer review

(A) In general

The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

(i) representatives of the National Institute for Literacy, the National Research

[1] So in original. Probably should be ''sections''.

[2] So in original.

Council of the National Academy of Sciences, and the National Institute of Child Health and Human Development;

(ii) 3 individuals selected by the Secretary;

(iii) 3 individuals selected by the National Institute for Literacy;

(iv) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

(v) 3 individuals selected by the National Institute of Child Health and Human Development.

(B) Experts

The panel shall include experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

(C) Priority

The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval. In making such recommendations, the panel shall give priority to applications from State educational agencies whose States have modified, are modifying, or provide an assurance that not later than 18 months after receiving a grant under this section the State educational agencies will increase the training and the methods of teaching reading required for certification as an elementary school teacher to reflect scientifically based reading research, except that nothing in this chapter shall be construed to establish a national system of teacher certification.

(D) Minimum grant amounts

(i) States

Each State educational agency selected to receive a grant under this section shall receive an amount for the grant period that is not less than $500,000.

(ii) Outlying areas

The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands selected to receive a grant under this section shall receive an amount for the grant period that is not less than $100,000.

(E) Limitation

The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be eligible to receive a grant under this part.

(d) Reading and literacy partnerships

(1) Required participants

In order for a State educational agency to receive a grant under this section, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership consisting of at least the following participants:

(A) The Governor of the State.

(B) The chief State school officer.

(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one local educational agency that is eligible to receive a subgrant under section 6661d of this title.

(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

(F) State directors of appropriate Federal or State programs with a strong reading component.

(G) A parent of a public or private school student or a parent who educates their child or children in their home, selected jointly by the Governor and the chief State school officer.

(H) A teacher who successfully teaches reading and an instructional staff member, selected jointly by the Governor and the chief State school officer.

(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

(2) Optional participants

A reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

(B) a local educational agency;

(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

(D) an adult education provider;

(E) a volunteer organization that is involved in reading programs; or

(F) a school library or a public library that offers reading or literacy programs for children or families.

(3) Preexisting partnership

If, before October 21, 1998, a State established a consortium, partnership, or any other similar body, that includes the Governor and the chief State school officer and has, as a central part of its mission, the promotion of literacy for children in their early childhood years through the 3d grade and family literacy services, but that does not satisfy the requirements of paragraph (1), the State may elect to treat that consortium, partnership, or body as the reading and literacy partnership for the State notwithstanding such paragraph, and it shall be considered a reading and literacy partnership for purposes of the other provisions of this part.

(Pub. L. 89–10, title II, § 2253, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–393.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (b)(2)(E)(i), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(E)(i), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6362, 6661c, 6661d, 6661e, 6661f, 6661g, 6661h of this title.

§ 6661c. Use of amounts by State educational agencies

A State educational agency that receives a grant under section 6661b of this title—

(1) shall use not more than 5 percent of the funds made available under the grant for the administrative costs of carrying out this part (excluding section 6661e of this title), of which not more than 2 percent may be used to carry out section 6661h of this title; and

(2) shall use not more than 15 percent of the funds made available under the grant to solicit applications for, award, and oversee the performance of, not less than one subgrant pursuant to section 6661e of this title.

(Pub. L. 89–10, title II, § 2254, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6661b, 6661e of this title.

§ 6661d. Local reading improvement subgrants

(a) In general

(1) Subgrants

A State educational agency that receives a grant under section 6661b of this title shall make subgrants, on a competitive basis, to local educational agencies that either—

(A) have at least one school that is identified for school improvement under section 6317(c) of this title in the geographic area served by the agency;

(B) have the largest, or second largest, number of children who are counted under section 6333(c) of this title, in comparison to all other local educational agencies in the State; or

(C) have the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (C), the term ''school-age child poverty rate'' means the number of children counted under section 6333(c) of this title who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

(2) Subgrant amount

A subgrant under this section shall consist of an amount sufficient to enable the subgrant recipient to operate a program for a 2-year period and may not be revoked or terminated on the grounds that a school ceases, during the grant period, to meet the requirements of subparagraph (A), (B), or (C) of paragraph (1).

(b) Applications

A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application—

(1) shall describe how the local educational agency will work with schools selected by the agency to receive assistance under subsection (d)(1) of this section—

(A) to select one or more programs of reading instruction, developed using scientifically based reading research, to improve reading instruction by all academic teachers for all children in each of the schools selected by the agency under such subsection and, where appropriate, for their parents; and

(B) to enter into an agreement with a person or entity responsible for the development of each program selected under subparagraph (A), or a person with experience or expertise about the program and its implementation, under which the person or entity agrees to work with the local educational agency and the schools in connection with such implementation and improvement efforts;

(2) shall include an assurance that the local educational agency—

(A) will carry out professional development for the classroom teacher and other instructional staff on the teaching of reading based on scientifically based reading research;

(B) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of subchapter I of this chapter, to enable parents to be their child's first and most important teacher;

(C) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

(D) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading;

(3) shall describe how the applicant will ensure that funds available under this part, and funds available for reading instruction for kindergarten through grade 6 from other appropriate sources, are effectively coordinated, and, where appropriate, integrated with funds under this chapter in order to improve existing activities in the areas of reading instruction, professional development, program improvement, parental involvement, technical assistance, and other activities that can help meet the purposes of this part;

(4) shall describe, if appropriate, how parents, tutors, and early childhood education providers will be assisted by, and participate in, literacy-related activities receiving financial assistance under this part to enhance children's reading fluency;

(5) shall describe how the local educational agency—

(A) provides instruction in reading to children with reading difficulties who—

(i) are at risk of being referred to special education based on these difficulties; or

(ii) have been evaluated under section 1414 of this title but, in accordance with section 1414(b)(5) of this title, have not been identified as being a child with a disability (as defined in section 1401 of this title); and

(B) will promote reading and library programs that provide access to engaging reading material; and

(6) shall include an assurance that the local educational agency will make available, upon request and in an understandable and uniform format, to any parent of a student attending any school selected to receive assistance under subsection (d)(1) of this section in the geographic area served by the local educational agency, information regarding the professional qualifications of the student's classroom teacher to provide instruction in reading.

(c) Special rule

To the extent feasible, a local educational agency that desires to receive a grant under this section shall form a partnership with one or more community-based organizations of demonstrated effectiveness in early childhood literacy, and reading readiness, reading instruction, and reading achievement for both adults and children, such as a Head Start program, family literacy program, public library, or adult education program, to carry out the functions described in paragraphs (1) through (6) of subsection (b) of this section. In evaluating subgrant applications under this section, a State educational agency shall consider whether the applicant has satisfied the requirement in the preceding sentence. If not, the applicant must provide information on why it would not have been feasible for the applicant to have done so.

(d) Use of funds

(1) In general

Subject to paragraph (2), a local educational agency that receives a subgrant under this section shall use amounts from the subgrant to carry out activities to advance reform of reading instruction in any school that (A) is described in subsection (a)(1)(A) of this section, (B) has the largest, or second largest, number of children who are counted under section 6333(c) of this title, in comparison to all other schools in the local educational agency, or (C) has the highest, or second highest, school-age child poverty rate (as defined in the second sentence of subsection (a)(1) of this section), in comparison to all other schools in the local educational agency. Such activities shall include the following:

(A) Securing technical and other assistance from—

(i) a program of reading instruction based on scientifically based reading research;

(ii) a person or entity with experience or expertise about such program and its implementation, who has agreed to work with the recipient in connection with its implementation; or

(iii) a program providing family literacy services.

(B) Providing professional development activities to teachers and other instructional staff (including training of tutors), using scientifically based reading research and purchasing of curricular and other supporting materials.

(C) Promoting reading and library programs that provide access to engaging reading material.

(D) Providing, on a voluntary basis, training to parents of children enrolled in a school selected to receive assistance under this paragraph on how to help their children with school work, particularly in the development of reading skills. Such training may be provided directly by the subgrant recipient, or through a grant or contract with another person. Such training shall be consistent with reading reforms taking place in the school setting. No parent shall be required to participate in such training.

(E) Carrying out family literacy services based on programs such as the Even Start family literacy model authorized under part B of subchapter I of this chapter, to enable parents to be their child's first and most important teacher.

(F) Providing instruction for parents of children enrolled in a school selected to receive assistance under this paragraph, and others who volunteer to be reading tutors for such children, in the instructional practices based on scientifically based reading research used by the applicant.

(G) Programs to assist those kindergarten students enrolled in a school selected to receive assistance under this paragraph who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills.

(H) Providing additional support for children preparing to enter kindergarten and students in kindergarten through grade 3 who are enrolled in a school selected to receive assistance under this paragraph, who

are experiencing difficulty reading, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, using supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research.

(I) Providing instruction in reading to children with reading difficulties who—

(i) are at risk of being referred to special education based on these difficulties; or

(ii) have been evaluated under section 1414 of this title but, in accordance with section 1414(b)(5) of this title, have not been identified as being a child with a disability (as defined in section 1401 of this title).

(J) Providing coordination of reading, library, and literacy programs within the local educational agency to avoid duplication and increase the effectiveness of reading, library, and literacy activities.

(2) Limitation on administrative expenses

A recipient of a subgrant under this section may use not more than 5 percent of the subgrant funds for administrative costs.

(e) Training nonrecipients

A recipient of a subgrant under this section may train, on a fee-for-service basis, personnel from schools, or local educational agencies, that are not a beneficiary of, or receiving, such a subgrant, in the instructional practices based on scientifically based reading research used by the recipient. Such a nonrecipient school or agency may use funds received under subchapter I of this chapter, and other appropriate Federal funds used for reading instruction, to pay for such training, to the extent consistent with the law under which such funds were received.

(Pub. L. 89–10, title II, § 2255, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6661b, 6661e, 6661g, 6661h of this title.

§ 6661e. Tutorial assistance subgrants

(a) In general

(1) Subgrants

Except as provided in paragraph (4), a State educational agency that receives a grant under section 6661b of this title shall make at least one subgrant on a competitive basis to—

(A) local educational agencies that have at least one school in the geographic area served by the agency that—

(i) is located in an area designated as an empowerment zone under part I of subchapter U of chapter 1 of title 26; or

(ii) is located in an area designated as an enterprise community under part I of subchapter U of chapter 1 of title 26;

(B) local educational agencies that have at least one school that is identified for school improvement under section 6317(c) of this title in the geographic area served by the agency;

(C) local educational agencies with the largest, or second largest, number of children who are counted under section 6333(c) of this title, in comparison to all other local educational agencies in the State; or

(D) local educational agencies with the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (D), the term ''school-age child poverty rate'' means the number of children counted under section 6333(c) of this title who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

(2) Notification

(A) To local educational agencies

A State educational agency shall provide notice to all local educational agencies within the State regarding the availability of the subgrants under this section.

(B) To providers and parents

Not later than 30 days after the date on which the State educational agency provides notice under subparagraph (A), each local educational agency described in paragraph (1) shall, as a condition on the agency's receipt of funds made available under subchapter I of this chapter, provide public notice to potential providers of tutorial assistance operating in the jurisdiction of the agency, and parents residing in such jurisdiction, regarding the availability of the subgrants under this section.

(3) Application

A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application shall include an assurance that the local educational agency will use the subgrant funds to carry out the duties described in subsection (b) of this section for children enrolled in any school selected by the agency that (A) is described in paragraph (1)(A), (B) is described in paragraph (1)(B), (C) has the largest, or second largest, number of children who are counted under section 6333(c) of this title, in comparison to all other schools in the local educational agency, or (D) has the highest, or second highest, school-age child poverty rate (as defined in the second sentence of paragraph (1)), in comparison to all other schools in the local educational agency.

(4) Exception

If no local educational agency within the State submits an application to receive a subgrant under this section within the 6-month period beginning on the date on which the State educational agency provided notice to the local educational agencies regarding the availability of the subgrants, the State educational agency may use funds otherwise

reserved under[1] 6661c(2) of this title for the purpose of providing local reading improvement subgrants under section 6661d of this title if the State educational agency certifies to the Secretary that the requirements of paragraph (2) have been met and each local educational agency in the State described in subparagraph (B) of such paragraph has demonstrated to the State educational agency that no provider of tutorial assistance described in such subparagraph requested the local educational agency to submit under paragraph (3) an application for a tutorial assistance subgrant.

(b) Use of funds

(1) In general

A local educational agency that receives a subgrant under this section shall carry out, using the funds provided under the subgrant, each of the duties described in paragraph (2).

(2) Duties

The duties described in this paragraph are the provision of tutorial assistance in reading, before school, after school, on weekends, or during the summer, to children who have difficulty reading, using instructional practices based on scientifically based reading research, through the following:

(A) The creation and implementation of objective criteria to determine in a uniform manner the eligibility of tutorial assistance providers and tutorial assistance programs desiring to provide tutorial assistance under the subgrant. Such criteria shall include the following:

(i) A record of effectiveness with respect to reading readiness, reading instruction for children in kindergarten through 3d grade, and early childhood literacy, as appropriate.

(ii) Location in a geographic area convenient to the school or schools attended by the children who will be receiving tutorial assistance.

(iii) The ability to provide tutoring in reading to children who have difficulty reading, using instructional practices based on scientifically based reading research and consistent with the reading instructional methods and content used by the school the child attends.

(B) The provision, to parents of a child eligible to receive tutorial assistance pursuant to this section, of multiple choices among tutorial assistance providers and tutorial assistance programs determined to be eligible under the criteria described in subparagraph (A). Such choices shall include a school-based program and at least one tutorial assistance program operated by a provider pursuant to a contract with the local educational agency.

(C) The development of procedures—

(i) for the provision of information to parents of an eligible child regarding such parents' choices for tutorial assistance for the child;

(ii) for considering children for tutorial assistance who are identified under subparagraph (D) and for whom no parent has selected a tutorial assistance provider or tutorial assistance program that give such parents additional opportunities to select a tutorial assistance provider or tutorial assistance program referred to in subparagraph (B); and

(iii) that permit a local educational agency to recommend a tutorial assistance provider or tutorial assistance program in a case where a parent asks for assistance in the making of such selection.

(D) The development of a selection process for providing tutorial assistance in accordance with this paragraph that limits the provision of assistance to children identified, by the school the child attends, as having difficulty reading, including difficulty mastering phonemic awareness, systematic phonics, fluency, and reading comprehension.

(E) The development of procedures for selecting children to receive tutorial assistance, to be used in cases where insufficient funds are available to provide assistance with respect to all children identified by a school under subparagraph (D), that—

(i) give priority to children who are determined, through State or local reading assessments, to be most in need of tutorial assistance; and

(ii) give priority, in cases where children are determined, through State or local reading assessments, to be equally in need of tutorial assistance, based on a random selection principle.

(F) The development of a methodology by which payments are made directly to tutorial assistance providers who are identified and selected pursuant to this section and selected for funding. Such methodology shall include the making of a contract, consistent with State and local law, between the provider and the local educational agency. Such contract shall satisfy the following requirements:

(i) It shall contain specific goals and timetables with respect to the performance of the tutorial assistance provider.

(ii) It shall require the tutorial assistance provider to report to the local educational agency on the provider's performance in meeting such goals and timetables.

(iii) It shall specify the measurement techniques that will be used to evaluate the performance of the provider.

(iv) It shall require the provider to meet all applicable Federal, State, and local health, safety, and civil rights laws.

(v) It shall ensure that the tutorial assistance provided under the contract is consistent with reading instruction and content used by the local educational agency.

(vi) It shall contain an agreement by the provider that information regarding the identity of any child eligible for, or enrolled in the program, will not be publicly disclosed without the permission of a parent of the child.

[1] So in original. Probably should be followed by "section".

(vii) It shall include the terms of an agreement between the provider and the local educational agency with respect to the provider's purchase and maintenance of adequate general liability insurance.

(viii) It shall contain provisions with respect to the making of payments to the provider by the local educational agency.

(G) The development of procedures under which the local educational agency carrying out this paragraph—

(i) will ensure oversight of the quality and effectiveness of the tutorial assistance provided by each tutorial assistance provider that is selected for funding;

(ii) will provide for the termination of contracts with ineffective and unsuccessful tutorial assistance providers (as determined by the local educational agency based upon the performance of the provider with respect to the goals and timetables contained in the contract between the agency and the provider under subparagraph (F));

(iii) will provide to each parent of a child identified under subparagraph (D) who requests such information for the purpose of selecting a tutorial assistance provider for the child, in a comprehensible format, information with respect to the quality and effectiveness of the tutorial assistance referred to in clause (i);

(iv) will ensure that each school identifying a child under subparagraph (D) will provide upon request, to a parent of the child, assistance in selecting, from among the tutorial assistance providers who are identified pursuant to subparagraph (B) the provider who is best able to meet the needs of the child;

(v) will ensure that parents of a child receiving tutorial assistance pursuant to this section are informed of their child's progress in the tutorial program; and

(vi) will ensure that it does not disclose the name of any child who may be eligible for tutorial assistance pursuant to this section, the name of any parent of such a child, or any other personally identifiable information about such a parent or child, to any tutorial assistance provider (excluding the agency itself), without the prior written consent of such parent.

(Pub. L. 89–10, title II, § 2256, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–401.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6661b, 6661c, 6661g of this title.

§ 6661f. National evaluation

From funds reserved under section 6661i(b)(1) of this title, the Secretary, through grants or contracts, shall conduct a national assessment of the programs under this part. In developing the criteria for the assessment, the Secretary shall receive recommendations from the peer review panel convened under section 6661b(c)(2) of this title.

(Pub. L. 89–10, title II, § 2257, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6661h, 6661i of this title.

§ 6661g. Information dissemination

(a) In general

From funds reserved under section 6661i(b)(2) of this title, the National Institute for Literacy shall disseminate information on scientifically based reading research and information on subgrantee projects under section 6661d or 6661e of this title that have proven effective. At a minimum, the institute shall disseminate such information to all recipients of Federal financial assistance under subchapters I and VII of this chapter, the Head Start Act [42 U.S.C. 9831 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.].

(b) Coordination

In carrying out this section, the National Institute for Literacy—

(1) shall use, to the extent practicable, information networks developed and maintained through other public and private persons, including the Secretary, the National Center for Family Literacy, and the Readline Program;

(2) shall work in conjunction with any panel convened by the National Institute of Child Health and Human Development and the Secretary and any panel convened by the Office of Educational Research and Improvement to assess the current status of research-based knowledge on reading development, including the effectiveness of various approaches to teaching children to read, with respect to determining the criteria by which the National Institute for Literacy judges scientifically based reading research and the design of strategies to disseminate such information; and

(3) may assist any State educational agency selected to receive a grant under section 6661b of this title, and that requests such assistance—

(A) in determining whether applications submitted under section 6661b of this title meet the requirements of this subchapter relating to scientifically based reading research; and

(B) in the development of subgrant application forms.

(Pub. L. 89–10, title II, § 2258, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr.

13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6369b, 6661i of this title.

§ 6661h. State evaluations; performance reports

(a) State evaluations

(1) In general

Each State educational agency that receives a grant under section 6661b of this title shall evaluate the success of the agency's subgrantees in meeting the purposes of this part. At a minimum, the evaluation shall measure the extent to which students who are the intended beneficiaries of the subgrants made by the agency have improved their reading skills.

(2) Contract

A State educational agency shall carry out the evaluation under this subsection by entering into a contract with an entity that conducts scientifically based reading research, under which contract the entity will perform the evaluation.

(3) Submission

A State educational agency shall submit the findings from the evaluation under this subsection to the Secretary. The Secretary shall submit a summary of the findings from the evaluations under this subsection and the national assessment conducted under section 6661f of this title to the appropriate committees of the Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(b) Performance reports

A State educational agency that receives a grant under section 6661b of this title shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. Such reports shall include—

(1) with respect to subgrants under section 6661d of this title, the program or programs of reading instruction, based on scientifically based reading research, selected by subgrantees;

(2) the results of use of the evaluation referred to in section 6661b(b)(2)(E)(iv) of this title; and

(3) a description of the subgrantees receiving funds under this part.

(Pub. L. 89–10, title II, § 2259, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6661c of this title.

§ 6661i. Authorizations of appropriations; reservations from appropriations; sunset

(a) Authorizations

(1) FY 1999

There are authorized to be appropriated to carry out this part $260,000,000 for fiscal year 1999.

(2) FY 2000

There are authorized to be appropriated to carry out this part $260,000,000 for fiscal year 2000.

(b) Reservations

From each of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary—

(1) shall reserve 1.5 percent to carry out section 6661f(a) of this title; and

(2) shall reserve $5,000,000 to carry out section 6661g of this title.

(c) Sunset

Notwithstanding section 1226a(a) of this title, this part is not subject to extension under such section.

(Pub. L. 89–10, title II, § 2260, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(2)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(2)(B)(i)], struck out "and section 6362(c) of this title" after "to carry out this part" in pars. (1) and (2).

Subsec. (b). Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(2)(B)(ii)], inserted "and" at end of par. (1), substituted a period for "; and" at end of par. (2), and struck out par. (3) which read as follows: "shall reserve $10,000,000 to carry out section 6362(c) of this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6661f, 6661g of this title.

PART D—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

PRIOR PROVISIONS

A prior part D, consisting of sections 6701 and 6702, was redesignated part E by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(1)], Oct. 21, 1998, 112 Stat. 2681–227, 2681–391.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6603, 6621, 6622, 8801, 8893 of this title.

§ 6671. Findings and purpose

(a) Findings

The Congress finds that—

(1) underlying the standards-driven framework of the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the high academic standards for eligible students under subchapter I of this chapter is a widespread need to prepare teachers to teach to higher standards;

(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

(3) while both the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and subchapters I and II of this chapter have extensive references to professional development of teachers, there are no provisions to incorporate ''on-the-ground'' planning and implementation to serve as models for local educational agencies across the Nation; and

(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

(b) Purpose

It is the purpose of this part—

(1) to address the need for professional development with a primary focus on teachers;

(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

(Pub. L. 89–10, title II, § 2301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6672. Demonstration program authorized

(a) General authority

(1) In general

The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement professional development programs.

(2) Program requirements

The programs described in paragraph (1)—

(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

(b) Eligible partnerships

For the purpose of this part, the term ''eligible partnership'' means a partnership consisting of—

(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 6314 of this title; or

(2) other partners that—

(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

(Pub. L. 89–10, title II, § 2302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633.)

§ 6673. Grants

(a) Authority

(1) In general

The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

(2) Distribution

The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

(3) Number of grants

In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this part.

(b) Grant requirements

(1) Duration

The Secretary shall award—

(A) planning grants under this part for a period of not less than six months and not more than nine months; and

(B) implementation grants under this part for a period of four fiscal years.

(2) Amount

The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed $500,000 in any one fiscal year.

(Pub. L. 89–10, title II, § 2303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634.)

§ 6674. Plan

Each eligible partnership desiring assistance under this part shall develop a plan for the pro-

gram to be assisted under this part. Such plan shall—

(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

(Pub. L. 89–10, title II, § 2304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634.)

§ 6675. Technical assistance

The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

(Pub. L. 89–10, title II, § 2305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

§ 6676. Matching funds

The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

(Pub. L. 89–10, title II, § 2306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635.)

PART E—GENERAL PROVISIONS

§ 6701. Reporting and accountability

(a) States

Each State that receives funds under this subchapter (other than part C) shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this subchapter (other than part C).

(b) Local educational agencies

Each local educational agency that receives funds under this subchapter (other than part C) shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this subchapter (other than part C).

(c) Federal evaluation

The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this subchapter (other than part C) in accordance with section 8941 of this title.

(d) Prohibition on funds being used for construction or renovation

Funds received under this subchapter (other than part C) shall not be used for construction or renovation of buildings, rooms, or any other facilities.

(Pub. L. 89–10, title II, § 2401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407.)

AMENDMENTS

1998—Pub. L. 105–277 substituted ''under this subchapter (other than part C)'' for ''under this part'' wherever appearing.

§ 6702. Definitions

As used in this subchapter (other than part C)—

(1) the term ''core academic subjects'' means those subjects listed in the State plan under title III[1] of the Goals 2000: Educate America Act or under the third National Education Goal as set forth in section 102(3) of such Act [20 U.S.C. 5812(3)];

(2) the term ''performance indicators'' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

(B) specific increases in the number of elementary and secondary teachers with strong content backgrounds in the core academic subjects;

(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

[1] See References in Text note below.

(E) specific increases in the number of teachers licensed in each core academic subject;

(3) the term ''sustained and intensive high-quality professional development'' means professional development activities that—

(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

(4) the term ''local'', when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for subchapter I of this chapter).

(Pub. L. 89–10, title II, § 2402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–277 substituted ''this subchapter (other than part C)'' for ''this part'' in introductory provisions.

SUBCHAPTER III—TECHNOLOGY FOR EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 8893 of this title.

§ 6801. Short title

This subchapter may be cited as the ''Technology for Education Act of 1994''.

(Pub. L. 89–10, title III, § 3101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3636.)

PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

§ 6811. Findings

The Congress finds that—

(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

(A) the absence of Federal leadership;

(B) the inability of many State and local educational agencies to invest in and support needed technologies;

(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

(D) the lack of appropriate electrical and telephone connections in the classroom; and

(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing edu-

cation and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning style, and in which students have increased opportunities to develop higher order thinking and technical skills;

(8) schools need new ways of financing the acquisition and maintenance of educational technology;

(9) the needs for educational technology differ from State to State;

(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and child-care facilities, adult and family education programs, and postsecondary institutions;

(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

(Pub. L. 89–10, title III, § 3111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3637.)

§ 6812. Statement of purpose

The purpose of this part is to support a comprehensive system for the acquisition and use by elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

(Pub. L. 89–10, title III, § 3112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3638.)

§ 6813. Definitions

For purposes of this subchapter—

(1) the term ''adult education'' has the same meaning given such term by section 9202 of this title;

(2) the term ''all students'' means students from a broad range of backgrounds and cir-

cumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

(3) the term ''information infrastructure'' means a network of communication systems designed to exchange information among all citizens and residents of the United States;

(4) the term ''instructional programming'' means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

(5) the terms ''interoperable'' and ''interoperability'' mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

(6) the term ''Office'' means the Office of Educational Technology;

(7) the term ''public telecommunications entity'' has the same meaning given to such term by section 397(12) of title 47;

(8) the term ''regional educational laboratory'' means a regional educational laboratory supported under section 6041(h) of this title;

(9) the term ''State educational agency'' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

(10) the term ''State library administrative agency'' has the same meaning given to such term in section 9122 of this title; and

(11) the term ''technology'' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

(Pub. L. 89–10, title III, § 3113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3639; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(a)(1), (3)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 105–220, title II, § 251(b)(2)(D), Aug. 7, 1998, 112 Stat. 1080.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–220 substituted ''section 9202'' for ''section 1201a''.

1996—Par. (10). Pub. L. 104–208, § 101(e) [title VII, § 709(a)(1), (3)], amended par. (10) identically, substituting ''section 9122 of this title'' for ''section 351a of this title''.

§ 6814. Authorization of appropriations; funding rule

(a) Authorization of appropriations

(1) Subparts 1, 2, and 3

There are authorized to be appropriated $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3 of this part, of which—

(A)(i) $3,000,000 shall be available to carry out subpart 1 of this part (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than $75,000,000; and

(ii) $5,000,000 shall be available to carry out subpart 1 of this part for any such year for which the amount appropriated under this subsection is equal to or greater than $75,000,000;

(B) $10,000,000 shall be available to carry out subpart 3 of this part (Regional Technical Support and Professional Development) for each such year; and

(C) the remainder shall be available to carry out subpart 2 of this part (State and Local Programs for School Technology Resources) for each such year.

(2) Subpart 4

For the purpose of carrying out subpart 4 of this part, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Funding rule

(1) Appropriations of less than $75,000,000

For any fiscal year for which the amount appropriated under subsection (a)(1) of this section is less than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) of this section the Secretary shall award grants for the National Challenge Grants in accordance with section 6846 of this title.

(2) Appropriations equal to or greater than $75,000,000

For any fiscal year for which the amount appropriated under subsection (a)(1) of this section is equal to or greater than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) of this section the Secretary shall award grants to State educational agencies from allotments under section 6841 of this title, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 6846 of this title.

(Pub. L. 89–10, title III, § 3114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3640.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6841, 6846 of this title.

§ 6815. Limitation on costs

Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

(Pub. L. 89–10, title III, § 3115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641.)

SUBPART 1—NATIONAL PROGRAMS FOR TECHNOLOGY IN EDUCATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6814 of this title.

§ 6831. National long-range technology plan

(a) In general

The Secretary shall develop and publish not later than 12 months after October 20, 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

(b) Plan requirements

The Secretary shall—

(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act [20 U.S.C. 6891 et seq.], and providers of technology services and products;

(2) transmit such plan to the President and to the appropriate committees of the Congress; and

(3) publish such plan in a form that is readily accessible to the public.

(c) Contents of plan

The national long-range plan shall describe the Secretary's activities to promote the purposes of this subchapter, including—

(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

(4) how the Secretary will promote—

(A) higher achievement of all students through the integration of technology into the curriculum;

(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

(C) the use of technology to assist in the implementation of State systemic reform strategies;

(D) the application of technological advances to use in education;

(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

(F) increased opportunities for the professional development of teachers in the use of new technologies;

(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 6833 of this title to promote the purposes of this part; and

(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

(Pub. L. 89–10, title III, § 3121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641.)

REFERENCES IN TEXT

The Star Schools Act, referred to in subsec. (b)(1), is part B (§§ 3201–3210) of title III of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, which is classified generally to part B (§ 6891 et seq.) of this subchapter. For complete classification of this Act to the Code, see section 6891 of this title and Tables.

§ 6832. Federal leadership

(a) Program authorized

In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

(b) Assistance

(1) In general

The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 5897[1] of this title.

[1] See References in Text note below.

(2) Other Federal agencies

For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

(c) Uses of funds

The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

(13) conferences on, and dissemination of information regarding, the uses of technology in education;

(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

(16) such other activities as the Secretary determines will meet the purposes of this subpart.

(d) Non-Federal share

(1) In general

Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(2) Increase

The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

(3) Maximum

The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

(Pub. L. 89–10, title III, § 3122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3642.)

REFERENCES IN TEXT

Section 5897 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

§ 6833. Study, evaluation and report of funding alternatives

The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and

administrative support resources and services. Such report shall be submitted to the Congress not later than one year after October 20, 1994.

(Pub. L. 89–10, title III, § 3123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6831 of this title.

SUBPART 2—STATE AND LOCAL PROGRAMS FOR SCHOOL TECHNOLOGY RESOURCES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 5891b, 6814, 8801 of this title.

§ 6841. Allotment and reallotment

(a) Allotment

(1) In general

Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which bears the same relationship to the amount made available under section 6814(a)(1)(C) of this title for such year as the amount such State received under part A of subchapter I of this chapter for such year bears to the amount received for such year under such part by all States.

(2) Minimum

No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 6814(a)(1)(C)[1] of this title for such year.

(b) Reallotment of unused funds

(1) In general

The amount of any State educational agency's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) of this section for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

(2) Other reallotments

The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) of this section for such year.

(Pub. L. 89–10, title III, § 3131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 6814(a)(1)(C) of this title, referred to in subsec. (a)(2), was in the original "section 3115(a)(1)(C)", meaning section 3115(a)(1)(C) of Pub. L. 89–10, which was translated as reading section 3114(a)(1)(C) of that Act to reflect the probable intent of Congress because section 3115 does not contain subsections, and section 3114(a)(1)(C) makes amounts available for allotment under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6814, 6842 of this title.

§ 6842. School technology resource grants

(a) Grants to States

(1) In general

From amounts made available under section 6841 of this title, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 6843 of this title.

(2) Use of grants

(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 6844 of this title.

(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

(b) Technical assistance

Each State educational agency receiving a grant under paragraph (1) shall—

(1) identify the local educational agencies served by the State educational agency that—

(A) have the highest number or percentage of children in poverty; and

(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 6843 of this title; and

(2) offer such technical assistance to such local educational agencies.

(Pub. L. 89–10, title III, § 3132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3645.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6844, 6845 of this title.

§ 6843. State application

To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably

require. Each such application shall contain a systemic statewide plan that—

(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

(A) purchasing quality technology resources;

(B) installing various linkages necessary to acquire connectivity;

(C) integrating technology into the curriculum in order to improve student learning and achievement;

(D) providing teachers and library media personnel with training or access to training;

(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

(G) assisting schools in promoting parent involvement;

(H) assisting the community in providing literacy-related services;

(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

(Pub. L. 89–10, title III, § 3133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6842 of this title.

§ 6844. Local uses of funds

Each local educational agency, to the extent possible, shall use the funds made available under section 6842(a)(2) of this title for—

(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

(2) funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;

(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

(4) providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

(6) providing educational services for adults and families.

(Pub. L. 89–10, title III, § 3134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6842, 6846, 8293, 8294 of this title.

§ 6845. Local applications

(a) Application requirements [1]

Each local educational agency desiring assistance from a State educational agency under section 6842(a)(2) of this title shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

(1) include a strategic, long-range (three- to five-year), plan that includes—

(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

[1] Designation ''(a)'' and heading editorially supplied.

(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

(F) the projected timetable for implementing such plan in schools;

(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

(3) describe how the acquired instructionally based technologies will help the local educational agency—

(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

(A) will be integrated into the school curriculum; and

(B) will affect student achievement and progress toward meeting the National Education Goals and any challenging State content standards and State student performance standards that may be developed.

(d)[2] Formation of consortia

A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

(e)[3] Coordination of application requirements

If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this chapter or the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e)[4] if the State educational agency determines that such approval would further the purposes of this subpart.

(Pub. L. 89–10, title III, § 3135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3647.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (e), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6846. National challenge grants for technology in education

(a) Grants authorized

(1) In general

From amounts made available under section 6814(b)(1)[1] of this title for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d) of this section, which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

(2) Duration

Grants under this section shall be awarded for a period of 5 years.

(b) Use of grants

Grants awarded under subsection (a) of this section shall be used for activities similar to the activities described in section 6844 of this title.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) of this section that—

(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to fur-

[2] So in original. Probably should be ''(b)''.

[3] So in original. Probably should be ''(c)''.

[4] So in original. Probably should be subsection ''(a)''.

[1] See References in Text note below.

ther the use of technology in the classroom or library media center;

(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

(d) Application

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648.)

REFERENCES IN TEXT

Section 6814(b)(1) of this title, referred to in subsec. (a)(1), was in the original ''section 3115(b)(1)'', meaning section 3115(b)(1) of Pub. L. 89–10, which was translated as reading section 3114(b)(1) of that Act to reflect the probable intent of Congress because section 3115 does not contain subsections, and section 3114(b)(1) makes amounts available for grants under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5891b, 6814 of this title.

§ 6847. Federal administration

(a) Evaluation procedures

The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

(b) Evaluation summary

The Secretary shall submit to the Congress four years after October 20, 1994, a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 8941 of this title.

(Pub. L. 89–10, title III, § 3137, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649.)

SUBPART 3—REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6814, 6896, 8651 of this title.

§ 6861. Regional technical support and professional development

(a) Grants authorized

(1) Authority

The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of subchapter XIII of this chapter, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

(2) Requirements

Each consortium receiving a grant under this section shall—

(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

(C) foster regional cooperation and resource and coursework sharing.

(b) Functions

(1) Technical assistance

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

(2) Professional development

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) develop and implement, in collaboration with State educational agencies and institutions of higher education, technology-specific, ongoing professional development, such as—

(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

(ii) distance professional development, including—

(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

(V) mobile education technology and training resources;

(B) develop training resources that—

(i) are relevant to the needs of the region and schools within the region;

(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

(I) use instructional technology; and

(II) develop instructional materials for adult learning; and

(iii) are aligned with the needs of teachers and administrators in the region;

(C) establish a repository of professional development and technical assistance resources;

(D) identify and link technical assistance providers to State and local educational agencies, as needed;

(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

(3) Information and resource dissemination

Each consortium receiving a grant under this section shall, to the extent practicable—

(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

(4) Coordination

Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

(Pub. L. 89–10, title III, § 3141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649.)

SUBPART 4—PRODUCT DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6814 of this title.

§ 6871. Educational technology product development

(a) Purpose

It is the purpose of this subpart to—

(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

(b) Federal assistance authorized

(1) In general

The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

(2) Grants and loans authorized

In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

(B) by awarding loans to eligible consortia which—

(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the

total loan, under such terms and conditions as the Secretary may consider appropriate.

(3) Matching requirement

The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(4) Eligible consortium

For the purpose of this subsection, the term ''eligible consortium'' means a consortium—

(A) that shall include—

(i) a State or local educational agency; and

(ii) a business, industry, or telecommunications entity; and

(B) that may include—

(i) a public or private nonprofit organization; or

(ii) a postsecondary institution.

(5) Priorities

In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

(B) are aligned with challenging State content standards and State and local curriculum frameworks;

(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

(E) show promise of reducing the costs of providing high-quality instruction;

(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

(G) are developed in consultation with classroom teachers;

(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

(6) Requirements for Federal assistance

Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

(A) a description of how the product will improve the achievement levels of students;

(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

(E) plans for dissemination of products to a wide audience of learners;

(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

(c) Consumer report

The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

(d) Proceeds

The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

(Pub. L. 89–10, title III, § 3151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3652.)

PART B—STAR SCHOOLS PROGRAM

PRIOR PROVISIONS

Provisions similar to those in this part were contained in subchapter IX (§ 4081 et seq.) of chapter 52 of this title prior to repeal by Pub. L. 103–382, § 364.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6831, 6922, 8893 of this title.

§ 6891. Short title

This part may be cited as the ''Star Schools Act''.

(Pub. L. 89–10, title III, § 3201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654.)

§ 6892. Findings

The Congress finds that—

(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

(3) distance learning programs may also be used to—

(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

(B) expand professional development opportunities for teachers;

(C) contribute to achievement of the National Education Goals; and

(D) expand learning opportunities for everyone.

(Pub. L. 89–10, title III, § 3202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654.)

§ 6893. Purpose

It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

(2) develop and acquire educational and instructional programming; and

(3) obtain technical assistance for the use of such facilities and instructional programming.

(Pub. L. 89–10, title III, § 3203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655.)

§ 6894. Grants authorized

(a) Authority

The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

(2) the development and acquisition of live, interactive instructional programming;

(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

(5) obtaining technical assistance; and

(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

(b) Duration

(1) In general

The Secretary shall award grants pursuant to subsection (a) of this section for a period of 5 years.

(2) Renewal

Grants awarded pursuant to subsection (a) of this section may be renewed for one additional three-year period.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

(2) Availability

Funds appropriated pursuant to the authority of subsection (a) of this section shall remain available until expended.

(d) Limitations

(1) In general

A grant under this section shall not exceed—

(A) five years in duration; and

(B) $10,000,000 in any one fiscal year.

(2) Instructional programming

Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

(3) Special rule

Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of subchapter I of this chapter.

(e) Federal share

(1) In general

The Federal share of the cost of projects funded under this section shall not exceed—

(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

(B) 60 percent for the third and fourth such years; and

(C) 50 percent for the fifth such year.

(2) Reduction or waiver

The Secretary may reduce or waive the requirement of the non-Federal share under

paragraph (1) upon a showing of financial hardship.

(f) Authority to accept funds from other agencies

The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

(g) Coordination

The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

(h) Closed captioning and descriptive video

Each entity receiving funds under this part is encouraged to provide—

(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

(2) descriptive video of the visual content of such program, as appropriate.

(Pub. L. 89–10, title III, § 3204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6895, 6896, 6897, 6899 of this title.

§ 6895. Eligible entities

(a) Eligible entities

(1) Required participation

The Secretary may make a grant under section 6894 of this title to any eligible entity, if at least one local educational agency is participating in the proposed project.

(2) Eligible entity

For the purpose of this part, the term ''eligible entity'' may include—

(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of subchapter I of this chapter; or

(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of subchapter I of this chapter, or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 6331(b)(2)[1] of this title;

(ii) a State educational agency;

(iii) adult and family education programs;

(iv) an institution of higher education or a State higher education agency;

(v) a teacher training center or academy that—

(I) provides teacher pre-service and in-service training; and

(II) receives Federal financial assistance or has been approved by a State agency;

(vi)(I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

(II) a public broadcasting entity with such experience; or

(vii) a public or private elementary or secondary school.

(b) Special rule

An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

(Pub. L. 89–10, title III, § 3205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3656.)

§ 6896. Applications

(a) Applications required

Each eligible entity which desires to receive a grant under section 6894 of this title shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Star school award applications

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

(C) reception facilities;

(D) satellite time;

(E) production facilities;

(F) other telecommunications equipment capable of serving a wide geographic area;

(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, in-

[1] So in original. Probably should be section ''6331(c)(2)''.

cluding training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

(H) the development of educational and related programming for use on a telecommunications network;

(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

(5) describe the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of subchapter I of this chapter;

(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

(11) if any member of the consortia receives assistance under subpart 3 of part A of this subchapter, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;[1]

(12) describe the activities or services for which assistance is sought, such as—

(A) providing facilities, equipment, training services, and technical assistance;

(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

(F) incorporating community resources such as libraries and museums into instructional programs;

(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of subchapter I of this chapter;

(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

(16) include such additional assurances as the Secretary may reasonably require.

(c) Priorities

The Secretary, in approving applications for grants authorized under section 6894 of this title, shall give priority to applications describing projects that—

(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

[1] So in original. Probably should be "such subpart;".

(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

(3) will serve schools with significant numbers of children counted for the purposes of part A of subchapter I of this chapter;

(4) ensure that the eligible entity will—

(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

(E) provide instruction for students, teachers, and parents;

(F) serve a multistate area; and

(G) give priority to the provision of equipment and linkages to isolated areas; and

(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

(d) Geographic distribution

In approving applications for grants authorized under section 6894 of this title, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

(Pub. L. 89–10, title III, § 3206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3657.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6899 of this title.

§ 6897. Leadership and evaluation activities

(a) Reservation

From the amount appropriated pursuant to the authority of section 6894(c)(1) of this title in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

(b) Method of funding

The Secretary may fund the activities described in subsection (a) of this section directly or through grants, contracts, and cooperative agreements.

(c) Uses of funds

(1) Leadership

Funds reserved for leadership activities under subsection (a) of this section may be used for—

(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

(B) other activities designed to enhance the quality of distance learning activities nationwide.

(2) Evaluation

Funds reserved for evaluation activities under subsection (a) of this section may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

(3) Peer review

Funds reserved for peer review activities under subsection (a) of this section may be used for peer review of—

(A) applications for grants under this part; and

(B) activities assisted under this part.

(Pub. L. 89–10, title III, § 3207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3660.)

§ 6898. Definitions

As used in this part—

(1) the term ''educational institution'' means an institution of higher education, a local educational agency, or a State educational agency;

(2) the term ''instructional programming'' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

(3) the term ''public broadcasting entity'' has the same meaning given such term in section 397 of title 47.

(Pub. L. 89–10, title III, § 3208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

§ 6899. Administrative provisions

(a) Continuing eligibility

(1) In general

In order to be eligible to receive a grant under section 6894 of this title for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 6896 of this title that such partnership shall—

(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

(i) increasing the number of students, schools or school districts served by the

courses of instruction assisted under this part in the previous fiscal year;

(ii) providing new courses of instruction; and

(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

(2) Special rule

Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

(b) Federal activities

The Secretary may assist grant recipients under section 6894 of this title in acquiring satellite time, where appropriate, as economically as possible.

(Pub. L. 89–10, title III, § 3209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

§ 6900. Other assistance

(a) Special statewide network

(1) In general

The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

(A) provides 2-way full motion interactive video and audio communications;

(B) links together public colleges and universities and secondary schools throughout the State; and

(C) meets any other requirements determined appropriate by the Secretary.

(2) State contribution

A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

(b) Special local network

(1) In general

The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

(2) Program requirements

A high technology demonstration program assisted under paragraph (1) shall—

(A) include 2-way full motion interactive video, audio and text communications;

(B) link together elementary and secondary schools, colleges, and universities;

(C) provide parent participation and family programs;

(D) include a staff development program; and

(E) have a significant contribution and participation from business and industry.

(3) Special rule

Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

(4) Matching requirement

A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

(c) Telecommunications programs for continuing education

(1) Authority

The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(2) Application

Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

(D) assure that the applicant has the technological and substantive experience to carry out the program; and

(E) contain such additional assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (c)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

PART C—READY-TO-LEARN TELEVISION

CROSS REFERENCE

For similar provisions related to ready-to-learn television, see section 1235 et seq. of this title.

§ 6921. Ready-to-learn

(a) In general

The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 6922(b) of this title to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

(b) Availability

In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

(Pub. L. 89–10, title III, § 3301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6924, 6925 of this title.

§ 6922. Educational programming

(a) Awards

The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act [20 U.S.C. 6891 et seq.]) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

(b) Eligible entities

To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) of this section, an entity shall be—

(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

(c) Cultural experiences

Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

(Pub. L. 89–10, title III, § 3302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663.)

REFERENCES IN TEXT

The Star Schools Act, referred to in subsec. (a)(2), is part B (§§ 3201–3210) of title III of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, which is classified generally to part B (§ 6891 et seq.) of this subchapter. For complete classification of this Act to the Code, see section 6891 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6921, 6925, 6926, 6928 of this title.

§ 6923. Duties of Secretary

The Secretary is authorized—

(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

(3) to develop and disseminate training materials, including—

(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and

after school program personnel caring for preschool and elementary school children;

(4) coordinate activities with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 [42 U.S.C. 9858 et seq.] regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

(Pub. L. 89–10, title III, § 3303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3664.)

REFERENCES IN TEXT

The Child Care Development and Block Grant Act of 1990, referred to in par. (4)(B), probably means the Child Care and Development Block Grant Act of 1990, which is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, and which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6924, 6925, 6928 of this title.

§ 6924. Applications

Each eligible entity desiring a grant, contract, or cooperative agreement under section 6921 or 6923 of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title III, § 3304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6925. Reports and evaluation

(a) Annual report to Secretary

An entity receiving funds under section 6921 of this title shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

(b) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

(1) a summary of the information made available under section 6922(a) of this title; and

(2) a description of the training materials made available under section 6923(3) of this title, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

(Pub. L. 89–10, title III, § 3305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6926. Administrative costs

With respect to the implementation of section 6922 of this title, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

(Pub. L. 89–10, title III, § 3306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6927. "Distance learning" defined

For the purposes of this part, the term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(Pub. L. 89–10, title III, § 3307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665.)

§ 6928. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 6922 of this title.

(b) Special projects

Of the amount appropriated under subsection (b)[1] of this section for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 6923(1)(C) of this title.

(Pub. L. 89–10, title III, § 3308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

[1] So in original. Probably should be subsection ''(a)''.

PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

§ 6951. Project authorized

The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

(Pub. L. 89–10, title III, § 3401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

§ 6952. Application required

(a) In general

Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of subchapter I of this chapter; and

(4) contain such additional assurances as the Secretary may reasonably require.

(b) Approval of applications; number of demonstration sites

In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

(Pub. L. 89–10, title III, § 3402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

§ 6953. Authorization of appropriations

There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title III, § 3403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666.)

PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

§ 6971. Short title

This part may be cited as the ''Elementary Mathematics and Science Equipment Act''.

(Pub. L. 89–10, title III, § 3501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

EXECUTIVE ORDER NO. 12821

Ex. Ord. No. 12821, Nov. 16, 1992, 57 F.R. 54285, which required executive departments and agencies with a scientific mission that employ significant numbers of scientists, mathematicians, and engineers and have a Federal laboratory to assist in mathematics and science education and to give highest preference to elementary and secondary schools in transfer or donation of education-related Federal equipment, was superseded by Ex. Ord. No. 12999, Apr. 17, 1996, 61 F.R. 17229, set out as a note under section 484 of Title 40, Public Buildings, Property, and Works.

§ 6972. Statement of purpose

It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

(Pub. L. 89–10, title III, § 3502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

§ 6973. Program authorized

The Secretary is authorized to make allotments to State educational agencies under section 6974 of this title to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

(Pub. L. 89–10, title III, § 3503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

§ 6974. Allotments of funds

(a) In general

From the amount appropriated under section 6979 of this title for any fiscal year, the Secretary shall reserve—

(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) Allotment

(1) In general

The remainder of the amount so appropriated (after meeting requirements in subsection (a) of this section) shall be allotted among State educational agencies so that—

(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of subchapter I of this chapter.

(2) Minimum

Except as provided in paragraph (3), no State educational agency shall receive an allotment

under this subsection for any fiscal year in an amount that is—

(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

(3) Ratable reductions

(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

(c) Reallotment of unused funds

The amount of any State educational agency's allotment under subsection (b) of this section for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) of this section for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) of this section for that year.

(d) "State" defined

For the purposes of this part the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) Data

The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(Pub. L. 89–10, title III, § 3504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667.)

REFERENCES IN TEXT

The Education for Economic Security Act, referred to in subsec. (b)(2)(B), is Pub. L. 98–377, Aug. 11, 1984, 98 Stat. 1267, as amended. Title II of the Act was classified generally to subchapter II (§ 3961 et seq.) of chapter 52 of this title, prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6973 of this title.

§ 6975. State application

(a) Application

Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each application described in subsection (a) of this section shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in section 6976 of this title for distribution of assistance under this part within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency

will not disapprove an application without notice and opportunity for a hearing.

(c) State administration

Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

(Pub. L. 89–10, title III, § 3505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3668.)

§ 6976. Local application

(a) Application

A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

(b) Contents of application

Each application described in subsection (a) of this section shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

(c) Priority

In awarding grants under this part, the State educational agency shall give priority to applications that—

(1) assign highest priority to providing assistance to schools which—

(A) are most seriously underequipped; or

(B) serve large numbers or percentages of economically disadvantaged students;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) assign priority to providing equipment and materials for students in grades 1 through 6.

(Pub. L. 89–10, title III, § 3506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3669.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6975, 6977 of this title.

§ 6977. Program requirements

(a) Coordination

Each State educational agency receiving an allotment under this part shall—

(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 6976(c) of this title; and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) Limitations on use of funds

(1) In general

Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) Capital improvements

Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

(Pub. L. 89–10, title III, § 3507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670.)

§ 6978. Federal administration

(a) Technical assistance and evaluation procedures

The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

(b) Report

The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 8161[1] of this title.

(Pub. L. 89–10, title III, § 3508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670.)

§ 6979. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

[1] So in original. Probably should be section ''8941''.

(Pub. L. 89–10, title III, § 3509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6974 of this title.

PART F—LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS

PRIOR PROVISIONS

A prior Part F, consisting of sections 7001 to 7005, related to an elementary and secondary school library media resources program, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

§ 7001. Limitation on availability of certain funds for schools

(a) Internet safety

(1) In general

No funds made available under this subchapter to a local educational agency for an elementary or secondary school that does not receive services at discount rates under section 254(h)(5) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

(A)(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B)(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) Timing and applicability of implementation

(A) In general

The local educational agency with responsibility for a school covered by paragraph (1) shall certify the compliance of such school with the requirements of paragraph (1) as part of the application process for the next program funding year under this chapter following the effective date of this section, and for each subsequent program funding year thereafter.

(B) Process

(i) Schools with Internet safety policies and technology protection measures in place

A local educational agency with responsibility for a school covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this chapter.

(ii) Schools without Internet safety policies and technology protection measures in place

A local educational agency with responsibility for a school covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this section in which the local educational agency is applying for funds for such school under this chapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this section in which the local educational agency is applying for funds for such school under this chapter, shall certify that such school is in compliance with such requirements.

Any school covered by paragraph (1) for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this subchapter for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

(iii) Waivers

Any school subject to a certification under clause (ii)(II) for which the local educational agency concerned cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The local educational agency concerned shall notify the Secretary of the applicability of that clause to the school. Such notice shall certify that the school will be brought into compliance with the requirements in paragraph (1) before the start of the third program year after the effective date of this section in which the school is applying for funds under this subchapter.

(3) Disabling during certain use

An administrator, supervisor, or person authorized by the responsible authority under

paragraph (1) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

(4) Noncompliance

(A) Use of General Education Provisions Act remedies

Whenever the Secretary has reason to believe that any recipient of funds under this subchapter is failing to comply substantially with the requirements of this subsection, the Secretary may—

(i) withhold further payments to the recipient under this subchapter,

(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act [20 U.S.C. 1234d, 1234e, 1234f].

(B) Recovery of funds prohibited

The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this subsection, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

(C) Recommencement of payments

Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that subparagraph.

(5) Definitions

In this section:

(A) Computer

The term ''computer'' includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

(B) Access to Internet

A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network which has access to the Internet.

(C) Acquisition or operation

A[1] elementary or secondary school shall be considered to have received funds under this subchapter for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(i) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

(ii) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

(D) Minor

The term ''minor'' means an individual who has not attained the age of 17.

(E) Child pornography

The term ''child pornography'' has the meaning given such term in section 2256 of title 18.

(F) Harmful to minors

The term ''harmful to minors'' means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(G) Obscene

The term ''obscene'' has the meaning given such term in section 1460 of title 18.

(H) Sexual act; sexual contact

The terms ''sexual act'' and ''sexual contact'' have the meanings given such terms in section 2246 of title 18.

(b) Effective date

This section shall take effect 120 days after December 21, 2000.

(c) Separability

If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.

(Pub. L. 89–10, title III, § 3601, as added Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1711], Dec. 21, 2000, 114 Stat. 2763, 2763A–337.)

PRIOR PROVISIONS

Prior sections 7001 to 7005 were repealed by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Section 7001, Pub. L. 89–10, title III, § 3601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, authorized elementary and secondary school library media resources program.

Section 7002, Pub. L. 89–10, title III, § 3602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, related to allocation of funds to States.

Section 7003, Pub. L. 89–10, title III, § 3603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, required State plans meeting certain criteria.

Section 7004, Pub. L. 89–10, title III, § 3604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, related to distribution of allocations to local educational agencies.

Section 7005, Pub. L. 89–10, title III, § 3605, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, authorized appropriations.

DISCLAIMERS REGARDING INTERNET ACCESS AND PRIVACY

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1702], Dec. 21, 2000, 114 Stat. 2763, 2763A–336, provided that:

[1] So in original. Probably should be ''An''.

''(a) DISCLAIMER REGARDING CONTENT.—Nothing in this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] or the amendments made by this title shall be construed to prohibit a local educational agency, elementary or secondary school, or library from blocking access on the Internet on computers owned or operated by that agency, school, or library to any content other than content covered by this title or the amendments made by this title.

''(b) DISCLAIMER REGARDING PRIVACY.—Nothing in this title or the amendments made by this title shall be construed to require the tracking of Internet use by any identifiable minor or adult user.''

AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1721(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–350, provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under section 3134 [20 U.S.C. 6844] or part A of title VI of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7311 et seq.], or under section 231 of the Library Services and Technology Act [20 U.S.C. 9141], may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

''(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term 'technology protection measure' has the meaning given that term in section 1703 [set out as a note under section 902 of Title 47, Telegraphs, Telephones, and Radiotelegraphs].''

EXPEDITED REVIEW

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1741], Dec. 21, 2000, 114 Stat. 2763, 2763A–351, provided that:

''(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] or any amendment made by this title, or any provision thereof, shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

''(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.''

SUBCHAPTER IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5891b, 6649, 8293, 8857 of this title; title 42 section 11841.

§ 7101. Short title

This subchapter may be cited as the ''Safe and Drug-Free Schools and Communities Act of 1994''.

(Pub. L. 89–10, title IV, § 4001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672.)

STUDY OF SCHOOL VIOLENCE

Pub. L. 106–71, § 4, Oct. 12, 1999, 113 Stat. 1043, as amended by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 312], Nov. 29, 1999, 113 Stat. 1535, 1501A–266, provided that:

''(a) CONTRACT FOR STUDY.—Not later than 60 days after the date of the enactment of this Act [Oct. 12, 1999], the Secretary of Education shall enter into a contract with the National Academy of Sciences for the purposes of conducting a study regarding the antecedents of school violence in urban, suburban, and rural schools, including the incidents of school violence that occurred in Pearl, Mississippi; Paducah, Kentucky; Jonesboro, Arkansas; Springfield, Oregon; Edinboro, Pennsylvania; Fayetteville, Tennessee; Littleton, Colorado; and Conyers, Georgia. Under the terms of such contract, the National Academy of Sciences shall appoint a panel that will—

''(1) review the relevant research about adolescent violence in general and school violence in particular, including the existing longitudinal and cross-sectional studies on youth that are relevant to examining violent behavior;

''(2) relate what can be learned from past and current research and surveys to specific incidents of school shootings;

''(3) interview relevant individuals, if possible, such as the perpetrators of such incidents, their families, their friends, their teachers, mental health providers, and others; and

''(4) give particular attention to such issues as—

''(A) the perpetrators' early development, families, communities, school experiences, and utilization of mental health services;

''(B) the relationship between perpetrators and their victims;

''(C) how the perpetrators gained access to firearms;

''(D) the impact of cultural influences and exposure to the media, video games, and the Internet; and

''(E) such other issues as the panel deems important or relevant to the purpose of the study.

The National Academy of Sciences shall utilize professionals with expertise in such issues, including psychiatrists, social workers, behavioral and social scientists, practitioners, epidemiologists, statisticians, and methodologists.

''(b) REPORT.—The National Academy of Sciences shall submit a report containing the results of the study required by subsection (a), to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Chair and ranking minority Member of the Committee on Education and the Workforce of the House of Representatives, and the Chair and ranking minority Member of the Committee on Health, Education, Labor, and Pensions of the Senate, not later than January 1, 2001, or 18 months after entering into the contract required by such subsection, whichever is earlier.''

§ 7102. Findings

The Congress finds as follows:

(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

(Pub. L. 89–10, title IV, § 4002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672.)

§ 7103. Purpose

The purpose of this subchapter is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

(3) States for development, training, technical assistance, and coordination activities;

(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

(Pub. L. 89–10, title IV, § 4003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3673.)

§ 7104. Funding

There are authorized to be appropriated—

(1) $630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1 of part A of this subchapter; and

(2) $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for national programs under subpart 2 of part A of this subchapter.

(Pub. L. 89–10, title IV, § 4004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7111, 7131, 7133 of this title.

§ 7105. Establishment of National Trust for Drug-Free Youth

(a) Establishment; purpose

In order to encourage private gifts of real and personal property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B,[1] there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug-Free Youth.

(b) Board of Directors; duties and functions; composition

The National Trust for Drug-Free Youth (hereinafter in this section referred to as the ''Na-

[1] See References in Text note below.

tional Trust'') shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) Principal office; venue

The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) Powers of Trust generally

The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as the Board considers necessary for the administration of its functions, including among other matter, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) Issuance of shares or stock; declaration or payment of dividends; loan of funds to officers or directors

The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) Annual report and independent audit

The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

(Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153.)

REFERENCES IN TEXT

Subtitle B, referred to in subsec. (a), is subtitle B of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–125, known as the Drug-Free Schools and Communities Act of 1986, which was classified to chapter 58 (§ 4601 et seq.) of this title, prior to repeal by Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293. Provisions related to drug-free schools and communities are now contained in this subchapter.

CODIFICATION

Section was enacted as part of the Anti-Drug Abuse Act of 1986, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

Section was formerly classified to section 4665, and subsequently section 3225, of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f) of this section relating to submitting annual report and audit to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 185 of House Document No. 103–7 (specifying report under section 4665 of this title, subsequently transferred to this section).

PART [1]A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 8801, 8893 of this title.

SUBPART 1—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7104 of this title.

§ 7111. Reservations and allotments

(a) Reservations

From the amount made available under section 7104(a)[1] of this title to carry out this subpart for each fiscal year, the Secretary—

(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

(3) may reserve not more than $1,000,000 for the national impact evaluation required by section 7117(a) of this title; and

(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 7118 of this title.

(b) State allotments

(1) In general

Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

[1] So in original. No part B has been enacted.

[1] So in original. Probably should be section ''7104(1)''.

(A) one-half of the remainder not reserved under subsection (a) of this section according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(B) one-half of such remainder according to the ratio between the amount each State received under part A of subchapter I of this chapter for the preceding year (or, for fiscal year 1995 only, sections 1005[2] and 1006[2] of this Act as such sections were in existence on the day preceding October 20, 1994) and the sum of such amounts received by all the States.

(2) Minimum

For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

(3) Reallotment

The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

(4) Definitions

For the purpose of this subsection—

(A) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) the term ''local educational agency'' includes educational service agencies and consortia of such agencies.

(Pub. L. 89–10, title IV, § 4011 [4111], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674.)

REFERENCES IN TEXT

Sections 1005 and 1006 of this Act as such sections were in existence on the day preceding October 20, 1994, referred to in subsec. (b)(1)(B), means sections 1005 and 1006 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 141, 146, as amended, which were classified to sections 2711 and 2712, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7113, 7114, 7118 of this title.

§ 7112. State applications

(a) In general

In order to receive an allotment under section 7111[1] of this title for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

(1) describes how funds under this subpart will be coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title;

(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 7117(a) of this title; and

(5) includes any other information the Secretary may require.

(b) State educational agency funds

A State's application under this section shall also contain a comprehensive plan for the use of funds under section 7113(a) of this title by the State educational agency that includes—

(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 7116 of this title;

(3) a description of how the State educational agency will use funds under section 7113(b) of this title;

(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 7113(d)(2)(A)(ii) of this title and how the supplemental funds will be allocated among such local educational agencies; and

(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 7115 of this title.

(c) Governor's funds

A State's application under this section shall also contain a comprehensive plan for the use of

[2] See References in Text note below.

[1] See References in Text note below.

funds under section 7114(a) of this title by the chief executive officer that includes—

(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

(3) a description of how funds reserved under section 7114(a) of this title will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

(4) a description of how the chief executive officer will award funds under section 7114(a) of this title and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

(d) Peer review

The Secretary shall use a peer review process in reviewing State applications under this section.

(e) Interim application

Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

(Pub. L. 89–10, title IV, § 4112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3675.)

REFERENCES IN TEXT

Section 7111 of this title, referred to in subsec. (a)(1), was in the original ''section 4111'', meaning section 4111 of Pub. L. 89–10, which was translated as reading section 4011 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allotments.

The Goals 2000: Educate America Act, referred to in subsec. (a)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7117 of this title.

§ 7113. State and local educational agency programs

(a) Use of funds

(1) In general

Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 7111[1] of this title for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

(2) Exception

(A) If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding October 20, 1994), then—

(i) an amount equal to 80 percent of the total amount allocated to such State under section 7111[1] of this title for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

(ii) an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

(B) Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

(C) For purposes of this paragraph, the term ''independent State agency'' means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

(b) State level programs

(1) In general

A State educational agency shall use not more than 5 percent of the amount available under subsection (a) of this section for activities such as—

(A) training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community

[1] See References in Text note below.

leaders, health service providers, local law enforcement officials, and judicial officials;

(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

(D) demonstration projects in drug and violence prevention;

(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

(G) the evaluation of activities carried out within the State under this part.

(2) Special rule

A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

(c) State administration

A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) of this section for the administrative costs of carrying out its responsibilities under this part.

(d) Local educational agency programs

(1) In general

A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) of this section for each fiscal year to local educational agencies in accordance with this subsection.

(2) Distribution

(A) Of the amount distributed under paragraph (1), a State educational agency shall distribute—

(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

(B) Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

(C)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

(I) high rates of alcohol or drug use among youth;

(II) high rates of victimization of youth by violence and crime;

(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

(IV) the extent of illegal gang activity;

(V) high incidence of violence associated with prejudice and intolerance;

(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

(VII) high rates of referrals of youths to juvenile court;

(VIII) high rates of expulsions and suspensions of students from schools; and

(IX) high rates of reported cases of child abuse and domestic violence.

(e) Reallocation of funds

If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d) of this section, or if such agency's application under section 7115 of this title is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) of this section to have the greatest need for additional funds.

(f) Return of funds to State educational agency; reallocation

(1) Return

Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this subchapter receives its allocation under this subchapter—

(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

(2) Reallocation

In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

(A) an amount equal to not more than 25 percent of the allocation it receives under this subchapter for such fiscal year; or

(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

(Pub. L. 89–10, title IV, § 4113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3677.)

REFERENCES IN TEXT

Section 7111 of this title, referred to in subsec. (a)(1), (2)(A)(i), was in the original ''section 4111'', meaning section 4111 of Pub. L. 89–10, which was translated as reading section 4011 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allotments.

Section 5121 of this Act (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (a)(2)(A), means section 5121 of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254, as amended, which was classified to section 3191 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7115, 7117 of this title.

§ 7114. Governor's programs

(a) Use of funds

(1) In general

An amount equal to 20 percent of the total amount allocated to a State under section 7111(b)(1)[1] of this title for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

(2) Law enforcement education partnerships

A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d) of this section.

(3) Administrative costs

A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) Programs authorized

(1) In general

A chief executive officer shall use funds made available under subsection (a)(1) of this section for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) of this section for—

(A) children and youth who are not normally served by State or local educational agencies; or

(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(2) Peer review

Grants or contracts awarded under this subsection shall be subject to a peer review process.

(c) Authorized activities

Grants and contracts under subsection (b) of this section shall be used for programs and activities such as—

(1) disseminating information about drug and violence prevention;

(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

(5) activities to protect students traveling to and from school;

(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

(9) developing and implementing strategies to prevent illegal gang activity;

(10) coordinating and conducting community-wide violence and safety assessments and surveys;

(11) service-learning projects that encourage drug- and violence-free lifestyles; and

(12) evaluating programs and activities assisted under this section.

(d) Law enforcement education partnerships

A chief executive officer shall use funds under subsection (a)(2) of this section to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

(2) Project Legal Lives and other programs in which district attorneys provide classroom

[1] See References in Text note below.

instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

(3) partnerships between law enforcement and child guidance professionals; and

(4) before- and after-school activities.

(Pub. L. 89–10, title IV, § 4114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3679.)

REFERENCES IN TEXT

Section 7111(b)(1) of this title, referred to in subsec. (a)(1), was in the original ''section 4111(1)'', meaning section 4111(1) of Pub. L. 89–10, which was translated as reading section 4011(b)(1) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011 which relates to State allocations in subsec. (b)(1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7117, 8801, 8893 of this title.

§ 7115. Local applications

(a) Application required

(1) In general

In order to be eligible to receive a distribution under section 7113(d) of this title for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

(2) Development

(A) A local educational agency shall develop its application under subsection (a)(1) of this section in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

(ii) advise the local educational agency regarding—

(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

(II) the agencies that administer such programs, projects, and activities; and

(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

(b) Contents of applications

An application under this section shall contain—

(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

(A) how the plan will be coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title;

(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

(C) how the local educational agency will use its distribution under this subpart;

(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

(3) such other information and assurances as the State educational agency may reasonably require.

(c) Review of application

(1) In general

In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

(2) Considerations

(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) of this section and the extent to which such plan is coordinated with programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], in accordance with the provisions of section 8856 of this title.

(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

(Pub. L. 89–10, title IV, § 4115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3681.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (b)(2)(A) and (c)(2)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 7113 of this title.

§ 7116. Local drug and violence prevention programs

(a) Program requirements

A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

(1) be designed, for all students and employees, to—

(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

(B) prevent violence and promote school safety; and

(C) create a disciplined environment conducive to learning; and

(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

(b) Authorized activities

A comprehensive drug and violence prevention program carried out under this subpart may include—

(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

(A) the dissemination of information about drug prevention;

(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

(i) family counseling;

(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

(A) the dissemination of information about school safety and discipline;

(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

(D) the development and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness; and

(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

(5) supporting ''safe zones of passage'' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

(6) acquiring and installing metal detectors and hiring security personnel;

(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

(9) drug abuse resistance education programs, designed to teach students to recognize

and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

(10) the evaluation of any of the activities authorized under this subsection.

(c) Limitations

(1) In general

Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b) of this section.

(2) Special rule

A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) of this section if funding for such activities is not received from other Federal agencies.

(d) Administrative provisions

Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to October 20, 1994) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

(Pub. L. 89–10, title IV, § 4116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3682; amended Pub. L. 106–554, § 1(a)(1) [title III, § 314], Dec. 21, 2000, 114 Stat. 2763, 2763A–47.)

REFERENCES IN TEXT

Part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to October 20, 1994), referred to in subsec. (d), means part B of title V of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254, as amended, which was classified generally to part B (§ 3191 et seq.) of subchapter V of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

CODIFICATION

October 20, 1994, referred to in subsec. (d), was in the original ''enactment of the Improving America's Schools Act'', which was translated as meaning enactment of the Improving America's Schools Act of 1994, Pub. L. 103–382, to reflect the probable intent of Congress.

AMENDMENTS

2000—Subsec. (b)(4)(D). Pub. L. 106–554 added subpar. (D) and struck out former subpar. (D) which read as follows: ''the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and''.

DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS

Pub. L. 101–647, title XV, § 1501, Nov. 29, 1990, 104 Stat. 4836, provided that:

''(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

''(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

''(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

''(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

''(2) develop a framework for law enforcement collaboration with the school system and community resource network;

''(3) identify a core law enforcement drug demand reduction program plan;

''(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

''(5) create a coordinated publicity plan with the school system and community resource network;

''(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

''(7) develop a model coordinated strategy for prosecuting violations within the zones;

''(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

''(9) provide support materials and exemplary program overviews.

''(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

''(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7112, 8293, 8294 of this title.

§ 7117. Evaluation and reporting

(a) National impact evaluation

(1) Biennial evaluation

The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

(2) Data collection

(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B) of this section.

(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the

Secretary determines appropriate, including estimated costs for implementing any recommendation.

(b) State report

(1) In general

By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

(A) on the implementation and outcomes of State programs under section 7114 of this title and section 7113(b) of this title and local educational agency programs under section 7113(d) of this title, as well as an assessment of their effectiveness; and

(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 7112 of this title.

(2) Special rule

The report required by this subsection shall be—

(A) in the form specified by the Secretary;

(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

(C) made readily available to the public.

(c) Local educational agency report

Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b) of this section, including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

(Pub. L. 89–10, title IV, § 4117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7111, 7112, 7131 of this title.

§ 7118. Programs for Native Hawaiians

(a) General authority

From the funds made available pursuant to section 7111(a)(4)[1] of this title to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subchapter for the benefit of Native Hawaiians.

(b) "Native Hawaiian" defined

For the purposes of this section, the term ''Native Hawaiian'' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

[1] See References in Text note below.

(Pub. L. 89–10, title IV, § 4118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685.)

REFERENCES IN TEXT

Section 7111(a)(4) of this title, referred to in subsec. (a), was in the original ''section 4111(a)(4)'', meaning section 4111(a)(4) of Pub. L. 89–10, which was translated as reading section 4011(a)(4) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 4111, but does contain a section 4011(a)(4) which makes funds available to carry out programs under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7111 of this title.

SUBPART 2—NATIONAL PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7104 of this title.

§ 7131. Federal activities

(a) Program authorized

From funds made available to carry out this subpart under section 7104(2) of this title, the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the postsecondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 290aa(d)(16) of title 42;

(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

(5) program evaluations in accordance with section 8941 of this title that address issues not addressed under section 7117(a) of this title;

(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

(13) other activities that meet unmet national needs related to the purposes of this subchapter.

(b) Peer review

The Secretary shall use a peer review process in reviewing applications for funds under this section.

(Pub. L. 89–10, title IV, § 4121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3686.)

§ 7132. Repealed. Pub. L. 105–244, title IX, § 981, Oct. 7, 1998, 112 Stat. 1837

Section, Pub. L. 89–10, title IV, § 4122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687, related to grants to institutions of higher education.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 7133. Hate crime prevention

(a) Grant authorization

From funds made available to carry out this subpart under section 7104(1) of this title the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

(b) Use of funds

(1) Program development

Grants under this section may be used to improve elementary and secondary educational efforts, including—

(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

(2) In general

In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

(3) Requirements

Each application under paragraph (2) shall include—

(A) a request for funds for the purposes described in this section;

(B) a description of the schools and communities to be served by the grants; and

(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

(4) Comprehensive plan

Each application shall include a comprehensive plan that contains—

(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

(B) a description of the program to be developed or augmented by such Federal and matching funds;

(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

(D) proper and efficient administration of such program; and

(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

(c) Award of grants

(1) Selection of recipients

The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

(2) Geographic distribution

The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

(3) Dissemination of information

The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

(d) Reports

The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards,

activities of grant recipients, and an evaluation of programs established under this section.

(Pub. L. 89–10, title IV, § 4123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687.)

SUBPART 3—GENERAL PROVISIONS

§ 7141. Definitions

For the purposes of this part:

(1) Community-based organization

The term ''community-based organization'' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

(2) Drug and violence prevention

The term ''drug and violence prevention'' means—

(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this subchapter; and

(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

(3) Hate crime

The term ''hate crime'' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

(4) Nonprofit

The term ''nonprofit'', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) School-aged population

The term ''school-aged population'' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(6) School personnel

The term ''school personnel'' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

(Pub. L. 89–10, title IV, § 4131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689.)

REFERENCES IN TEXT

Section 1(b) of the Hate Crime Statistics Act of 1990, referred to in par. (3), is section 1(b) of Pub. L. 101–275, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

§ 7142. Materials

(a) "Wrong and harmful" message

Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

(b) Curriculum

The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

(Pub. L. 89–10, title IV, § 4132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689.)

§ 7143. Prohibited uses of funds

No funds under this part may be used for—

(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

(Pub. L. 89–10, title IV, § 4133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690.)

§ 7144. Quality rating

(a) In general

The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b) of this section; and

(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

(b) Criteria

The standard referred to in subsection (a) of this section shall address, at a minimum—

(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

(c) Request for quality program school designation

A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a) of this section, as the case may be.

(d) Public notification

Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a) of this section, as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.

(Pub. L. 89–10, title IV, § 4134, as added Pub. L. 105–277, div. D, title I, § 122, Oct. 21, 1998, 112 Stat. 2681–756.)

SUBCHAPTER V—PROMOTING EQUITY

PART A—MAGNET SCHOOLS ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6212 of this title.

§ 7201. Findings

The Congress finds that—

(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

(i) magnet school students from other students in the school; and

(ii) students by racial characteristics;

(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance; and

(5) it is in the best interest of the Federal Government to—

(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

(C) maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

(Pub. L. 89–10, title V, § 5101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690.)

§ 7202. Statement of purpose

The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

(3) the development and design of innovative educational methods and practices; and

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(Pub. L. 89–10, title V, § 5102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7206 of this title.

§ 7203. Program authorized

The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

(1) part of an approved desegregation plan; and

(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(Pub. L. 89–10, title V, § 5103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7204. "Magnet school" defined

For the purpose of this part, the term ''magnet school'' means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(Pub. L. 89–10, title V, § 5104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691.)

§ 7205. Eligibility

A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purposes of this part if such agency or consortium—

(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority-group-segregated children or faculty in such schools.

(Pub. L. 89–10, title V, § 5105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7206. Applications and requirements

(a) Applications

An eligible local educational agency or consortium of such agencies desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) Information and assurances

Each such application shall include—

(1) a description of—

(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

(C) how an applicant will continue the magnet school project after assistance under this part is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

(D) how funds under this part will be used to implement services and activities that are consistent with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with the provisions of section 8856 of this title; and

(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

(2) assurances that the applicant will—

(A) use funds under this part for the purposes specified in section 7202 of this title;

(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

(iii) designing or operating extracurricular activities for students;

(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

(c) Special rule

No application may be approved under this section unless the Assistant Secretary of Edu-

cation for Civil Rights determines that the assurances described in subsection (b)(2)(C) of this section will be met.

(Pub. L. 89–10, title V, § 5106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(D), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7207. Priority

In approving applications under this part, the Secretary shall give priority to applicants that—

(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III[1] of the Goals 2000: Educate America Act; and

(5) propose to draw on comprehensive community involvement plans.

(Pub. L. 89–10, title V, § 5107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (4), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7208. Use of funds

(a) In general

Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

(B) further the purposes of this part.

(b) Special rule

Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) of this section only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

(Pub. L. 89–10, title V, § 5108, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7209. Prohibitions

(a) Transportation

Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

(b) Planning

A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

(Pub. L. 89–10, title V, § 5109, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7210. Limitations

(a) Duration of awards

A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

(b) Limitation on planning funds

A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

(c) Amount

No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

(d) Timing

To the extent practicable, the Secretary shall award grants for any fiscal year under this part

[1] See References in Text note below.

not later than June 1 of the applicable fiscal year.

(Pub. L. 89–10, title V, § 5110, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7211. Innovative programs

(a) In general

From amounts reserved under subsection (d) of this section for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 7205 of this title to enable such agencies or consortia to conduct innovative programs that—

(1) carry out the purpose of this part; and

(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

(A) organized around a special emphasis, theme or concept; and

(B) involving extensive parent and community involvement.

(b) Applicability

Sections 7203, 7206, 7207, and 7208 of this title,[1] shall not apply to grants awarded under subsection (a) of this section.

(c) Applications

Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(d) Innovative programs

The Secretary shall reserve not more than 5 percent of the funds appropriated under section 7213(a) of this title for each fiscal year to award grants under this section.

(Pub. L. 89–10, title V, § 5111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694.)

§ 7212. Evaluations

(a) Reservation

The Secretary may reserve not more than two percent of the funds appropriated under section 7213(a) of this title for any fiscal year to carry out evaluations of projects assisted under this part.

(b) Contents

Each evaluation described in subsection (a) of this section, at a minimum, shall address—

(1) how and the extent to which magnet school programs lead to educational quality and improvement;

(2) the extent to which magnet school programs enhance student access to quality education;

(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

(Pub. L. 89–10, title V, § 5112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

§ 7213. Authorization of appropriations; reservation

(a) Authorization

For the purpose of carrying out this part, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Availability of funds for grants to agencies not previously assisted

In any fiscal year for which the amount appropriated pursuant to subsection (a) of this section exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

(Pub. L. 89–10, title V, § 5113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7211, 7212 of this title.

PART B—WOMEN'S EDUCATIONAL EQUITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6649 of this title.

§ 7231. Short title; findings

(a) Short title

This part may be cited as the ''Women's Educational Equity Act of 1994''.

(b) Findings

The Congress finds that—

(1) since the enactment of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

(C) girls do not take as many mathematics and science courses as boys, girls lose con-

[1] So in original. The comma probably should not appear.

fidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

(Pub. L. 89–10, title V, § 5201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(1), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Women's Educational Equity Act, referred to in subsec. (b)(2), is part A of title IV of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 234, which was classified generally to part A (§ 3041 et seq.) of subchapter IV of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 7232. Statement of purposes

It is the purpose of this part—

(1) to promote gender equity in education in the United States;

(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972 [20 U.S.C. 1681 et seq.]; and

(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

(Pub. L. 89–10, title V, § 5202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696.)

REFERENCES IN TEXT

The Educational Amendments of 1972, referred to in par. (2), probably means the Education Amendments of 1972, which is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

§ 7233. Programs authorized

(a) In general

The Secretary is authorized—

(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

(6) to perform any other activities consistent with achieving the purposes of this part.

(b) Grants authorized

(1) In general

The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

(A) provide grants to develop model equity programs; and

(B) provide funds for the implementation of equity programs in schools throughout the Nation.

(2) Support and technical assistance

To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

(A) to implement effective gender-equity policies and programs at all educational levels, including—

(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in

particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(xii) programs to improve representation of women in educational administration at all levels; and

(xiii) planning, development and initial implementation of—

(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education; including community colleges; and

(III) innovative approaches to school-community partnerships for educational equity.

(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

(vi) updating high quality educational materials previously developed through awards made under this part;

(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and

(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

(Pub. L. 89–10, title V, § 5203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696; amended Pub. L. 104–193, title I, § 110(j)(3), Aug. 22, 1996, 110 Stat. 2172.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(2)(A)(i), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A)(xi), (B)(viii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b)(2)(A)(xi). Pub. L. 104–193, § 110(j)(3)(A), substituted ''assistance under a State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children benefits''.

Subsec. (b)(2)(B)(viii). Pub. L. 104–193, § 110(j)(3)(B), substituted ''assistance under the State program funded under part A of title IV of the Social Security Act'' for ''Aid to Families with Dependent Children''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accel-

erate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7234, 7235, 7238 of this title.

§ 7234. Applications

An application under this part shall—

(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this part, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

(2) where appropriate, demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

(4) where appropriate, describe how funds under this part will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.];

(5) for applications for assistance under section 7233(b)(1) of this title, demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

(6) for applications for assistance under section 7233(b)(1) of this title, demonstrate how parental involvement in the project will be encouraged; and

(7) for applications for assistance under section 7233(b)(1) of this title, describe plans for continuation of the activities assisted under this part with local support following completion of the grant period and termination of Federal support under this part.

(Pub. L. 89–10, title V, § 5204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699.)

REFERENCES IN TEXT

The School-to-Work Opportunities Act of 1994, referred to in par. (4), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 7235. Criteria and priorities

(a) Criteria and priorities

(1) In general

The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 7233(b) of this title to ensure that funds under this part are used for programs that most effectively will achieve the purposes of this part.

(2) Criteria

The criteria described in subsection (a) of this section may include the extent to which the activities assisted under this part—

(A) address the needs of women and girls of color and women and girls with disabilities;

(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.] in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated.

(b) Priorities

In approving applications under this part, the Secretary may give special consideration to applications—

(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

(3) for projects that will—

(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated;

(D) address issues of national significance that can be duplicated; and

(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

(c) Special rule

To the extent feasible, the Secretary shall ensure that grants awarded under this part for each fiscal year address—

(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

(2) all regions of the United States; and

(3) urban, rural, and suburban educational institutions.

(d) Coordination

Research activities supported under this part—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

(e) Limitation

Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this part.

(Pub. L. 89–10, title V, § 5205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a)(2)(B), (C), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

Part C of title IX of this Act (as such part was in effect on October 1, 1988), referred to in subsec. (b)(1), is part C of title IX of Pub. L. 89–10, as added by Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2298, as amended, known as the Women's Educational Equity Act of 1978, which was classified generally to part C (§ 3341 et seq.) of subchapter IX of chapter 47 of this title, prior to the general revision of Pub. L. 89–10 by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140.

§ 7236. Report

The Secretary, not later than January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

(Pub. L. 89–10, title V, § 5206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700.)

§ 7237. Administration

(a) Evaluation and dissemination

The Secretary shall evaluate in accordance with section 8941 of this title, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs not later than January 1, 1998.

(b) Program operations

The Secretary shall ensure that the activities assisted under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

(Pub. L. 89–10, title V, § 5207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700.)

§ 7238. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 7233(b)(1) of this title.

(Pub. L. 89–10, title V, § 5208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in part A (§ 3241 et seq.) of subchapter VI of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, § 101, and in subpart 1 (§ 5051 et seq.) of part C of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, § 391(i).

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1232d of this title.

§ 7261. Short title

This part may be cited as the ''School Dropout Assistance Act''.

(Pub. L. 89–10, title V, § 5301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

§ 7262. Purpose

The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

(Pub. L. 89–10, title V, § 5302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

§ 7263. Grants to local educational agencies

(a) Allotment to categories of local educational agencies

From the amount appropriated under section 7268 of this title for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 8941 of this title. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) Special consideration

(1) In general

The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to local educational agencies participating in an educational partnership.

(2) Educational partnerships

For the purpose of this part the term ''educational partnerships'' means a partnership between—

(A) a local educational agency; and

(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

(c) Award of grant

(1) In general

From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a) of this section, the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 7264[1] of this title and whose applications propose a program of sufficient size, scope, and quality to be effective.

(2) Additional funds

Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d) of this section.

(3) Terms and conditions

Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

(d) Use of funds when not fully allotted to categories under subsection (a)

(1) In general

Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) of this section will not be required for applications of the local educational agencies in the case of categories described in paragraphs[2] (1), (2), or (3) of subsection (a) of this section, the Secretary shall make the amount not so required available to another category under subsection (a) of this section. In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) Peer review

In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) Federal share

(1) Federal share

The Federal share of a grant under this part may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

(B) 75 percent of such cost in each such succeeding fiscal year.

(2) Remaining costs

The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

(3) Non-Federal share

The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

[1] See References in Text note below.

[2] So in original. Probably should be ''paragraph''.

(Pub. L. 89–10, title V, § 5303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(2)(B), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

Section 7264 of this title, referred to in subsec. (c)(1), was in the original ''section 5304'', meaning section 5304 of Pub. L. 89–10, which was translated as reading section 5404 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 5304, but does contain a section 5404 relating to applications for grants under this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7264, 7266 of this title.

§ 7264. Application

(a) Application required

(1) In general

A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Duration

Each such application shall be for a three-year period.

(b) Contents

Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

(3) include a plan for coordinated activities involving not less than one secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under subchapter I of this chapter;

(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) Priority

The Secretary shall, in approving applications under this section, give priority to applications which—

(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 7263(a) of this title.

(d) Special consideration

The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

(e) Grants for new grantees

In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d) of this section.

(f) Continuation of assistance

For the two fiscal years beginning after October 20, 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

(1) satisfies the requirements of this section;

(2) qualifies for special consideration or priority under—

(A) section 7263(b) of this title; and

(B) subsections (c) and (d) of this section; and

(3) provides evidence that the program for which such agency is seeking assistance is effective in—

(A) providing early intervention services to at-risk students in elementary and secondary schools;

(B) identifying potential student dropouts; and

(C) preventing students from dropping out of school.

(Pub. L. 89–10, title V, § 5404 [5304], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3703.)

REFERENCES IN TEXT

The School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.), referred to in subsec. (f), is part A of title VI of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, as amended, which was classified generally to part A (§ 3241 et seq.) of subchapter VI of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. Another School Dropout Demonstration Assistance Act of 1988 is subpart 1 of part C of title VI of Pub. L. 100–418 which was classified to subpart 1 (§ 5051 et seq.) of part C of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7263, 7265 of this title.

§ 7265. Authorized activities

Grants under this part shall be used to carry out activities and services described in applications approved under section 7264[1] of this title. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school personnel on strategies and techniques designed to—

(A) identify children at risk of dropping out of school;

(B) intervene in the instructional program for such children with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

(11) the study of the relationship between disabling conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(17) summer employment programs;

(18) occupational training programs;

(19) career opportunity and skills counseling;

(20) job placement services;

(21) the development of skill employment competency testing programs;

(22) special school staff training projects; and

(23) mentoring programs.

(Pub. L. 89–10, title V, § 5305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3704.)

REFERENCES IN TEXT

Section 7264 of this title, referred to in text, was in the original "section 5304", meaning section 5304 of Pub. L. 89–10, which was translated as reading section 5404 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 5304, but does contain a section 5404 relating to applications for grants under this part.

§ 7266. Distribution of assistance; limitation on costs

(a) Distribution of assistance

The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 7263(a) of this title;

(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used

[1] See References in Text note below.

for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

(b) Administrative costs

Not more than five percent of any grant made under this part may be used for administrative costs.

(Pub. L. 89–10, title V, § 5306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706.)

§ 7267. Reports

(a) Annual reports

The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 9002(b) of this title, to implement a definition and data collection process for school dropouts in elementary and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

(1) throughout the Nation by rural and urban location as defined by the Secretary; and

(2) in each of the individual States and the District of Columbia.

(b) Recommendations

The report under subsection (a) of this section shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

(Pub. L. 89–10, title V, § 5307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706.)

§ 7268. Authorization of appropriations

There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title V, § 5308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7263 of this title.

SUBCHAPTER VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5891b, 7713, 8293, 8801, 8857 of this title.

§ 7301. Findings and statement of purpose

(a) Findings

The Congress finds that chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

(b) Statement of purpose

It is the purpose of programs under this subchapter—

(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(2) to support State and local efforts to accomplish the National Education Goals;

(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

(5) to meet the special educational needs of at risk and high cost students.

(c) State and local responsibility

The basic responsibility for the administration of funds made available under this subchapter is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this subchapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

(Pub. L. 89–10, title VI, § 6001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

REFERENCES IN TEXT

Chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means chapter 2 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 203, as amended, which was classified generally to div. 2 (§ 2911 et seq.) of subchapter I of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 7302. Authorization of appropriations; duration of assistance

(a) Authorization

To carry out the purposes of this subchapter, there are authorized to be appropriated $370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Duration of assistance

During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary

shall, in accordance with the provisions of this subchapter, make payments to State educational agencies for the purpose of this subchapter.

(Pub. L. 89–10, title VI, § 6002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7312 of this title.

§ 7303. "Effective schools programs" defined

For the purposes of this subchapter the term ''effective schools programs'' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

(B) Emphasis on the acquisition of basic and higher order skills.

(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

(D) A climate of expectation that virtually all children can learn under appropriate conditions.

(E) Continuous assessment of students and programs to evaluate the effects of instruction.

(Pub. L. 89–10, title VI, § 6003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707.)

PART A—STATE AND LOCAL PROGRAMS

§ 7311. Allotment to States

(a) Reservations

From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

(b) Allotment

From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

(c) Definitions

For purposes of this part:

(1) The term ''school-age population'' means the population aged 5 through 17.

(2) The term ''States'' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title VI, § 6101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708.)

§ 7312. Allocation to local educational agencies

(a) Distribution rule

From the sums made available each year to carry out this subchapter, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children living in areas with high concentrations of low-income families;

(2) children from low-income families; and

(3) children living in sparsely populated areas.

(b) Calculation of enrollments

(1) In general

The calculation of relative enrollments under subsection (a) of this section shall be on the basis of the total of—

(A) the number of children enrolled in public schools; and

(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this subchapter, for the fiscal year preceding the fiscal year for which the determination is made.

(2) Construction

Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

(3) Adjustments

(A) Relative enrollments under subsection (a) of this section shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

(i) children living in areas with high concentrations of low-income families;

(ii) children from low-income families; or

(iii) children living in sparsely populated areas.

(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

(c) Payment of allocations

(1) Distribution

From the funds paid to a State educational agency pursuant to section 7302 of this title

for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 7332 of this title the amount of such local educational agency allocation as determined under subsection (a) of this section.

(2) Additional funds

(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a) of this section, may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) of this section and enrolled in such schools within the local educational agency.

(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

(Pub. L. 89–10, title VI, § 6102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7351 of this title.

PART B—STATE PROGRAMS

§ 7331. State uses of funds

(a) Authorized activities

A State educational agency may use funds made available for State use under this subchapter only for—

(1) State administration of programs under this subchapter including—

(A) supervision of the allocation of funds to local educational agencies;

(B) planning, supervision, and processing of State funds; and

(C) monitoring and evaluation of programs and activities under this subchapter;

(2) support for planning, designing, and initial implementation of charter schools as described in part C of subchapter X of this chapter; and

(3) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

(b) Limitations and requirements

Not more than 25 percent of funds available for State programs under this subchapter in any fiscal year may be used for State administration under subsection (a)(1) of this section.

(Pub. L. 89–10, title VI, § 6201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3709; amended Pub. L. 105–278, § 2(1), Oct. 22, 1998, 112 Stat. 2682.)

AMENDMENTS

1998—Subsec. (a)(2), (3). Pub. L. 105–278 added par. (2) and redesignated former par. (2) as (3).

§ 7332. State applications

(a) Application requirements

Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this subchapter;

(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this subchapter; and

(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this subchapter;

(3) sets forth the allocation of such funds required to implement section 7372 of this title;

(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this subchapter, the State educational agency has not exercised and will not exercise any influence in the decision-making processes of local educational agencies as to the expenditure made pursuant to an application under section 7353 of this title;

(6) contains assurances that there is compliance with the specific requirements of this subchapter; and

(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

(b) Period of application

An application filed by the State under subsection (a) of this section shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Audit rule

Local educational agencies receiving less than an average of $5,000 each under this subchapter shall not be audited more frequently than once every five years.

(Pub. L. 89–10, title VI, § 6202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7312 of this title.

PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

§ 7351. Targeted use of funds

(a) General rule

Funds made available to local educational agencies under section 7312 of this title shall be

used for innovative assistance described in subsection (b) of this section.

(b) Innovative assistance

The innovative assistance programs referred to in subsection (a) of this section include—

(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

(3) promising education reform projects, including effective schools and magnet schools;

(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

(6) programs to provide for the educational needs of gifted and talented children;

(7) school reform activities that are consistent with the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(8) planning, designing, and initial implementation of charter schools as described in part C of subchapter X of this chapter; and

(9) school improvement programs or activities under sections 6317 and 6318 of this title.

(Pub. L. 89–10, title VI, § 6301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711; amended Pub. L. 105–278, § 2(2), Oct. 22, 1998, 112 Stat. 2682.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(7), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(8), (9). Pub. L. 105–278 added par. (8) and redesignated former par. (8) as (9).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7353 of this title.

§ 7352. Administrative authority

In order to conduct the activities authorized by this subchapter, each State or local educational agency may use funds reserved for this subchapter to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

(Pub. L. 89–10, title VI, § 6302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711.)

§ 7353. Local applications

(a) Contents of application

A local educational agency or consortium of such agencies may receive an allocation of funds under this subchapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 7351 of this title and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

(B) sets forth the allocation of such funds required to implement section 7372 of this title;

(2) describes how assistance under this subchapter will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

(3) provide assurances of compliance with the provisions of this subchapter, including the participation of children enrolled in private, nonprofit schools in accordance with section 7372 of this title;

(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this subchapter; and

(5) provides in the allocation of funds for the assistance authorized by this subchapter, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this subchapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

(b) Period of application

An application filed by a local educational agency under subsection (a) of this section shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Local educational agency discretion

Subject to the limitations and requirements of this subchapter, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this subchapter and are used to meet the educational needs within the schools of such local educational agency.

(Pub. L. 89–10, title VI, § 6303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7332 of this title.

PART D—GENERAL ADMINISTRATIVE PROVISIONS

§ 7371. Maintenance of effort; Federal funds supplementary

(a) Maintenance of effort

(1) In general

Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Reduction of funds

The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waivers

The Secretary may waive, for one fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) Federal funds supplementary

A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(Pub. L. 89–10, title VI, § 6401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3712.)

§ 7372. Participation of children enrolled in private schools

(a) Participation on equitable basis

(1) In general

To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subchapter or which serves the area in which a program or project assisted under this subchapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subchapter.

(2) Other provisions for services

If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this subchapter.

(3) Application of requirements

The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this subchapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Equal expenditures

Expenditures for programs pursuant to subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this subchapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subchapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) Funds

(1) Administration of funds and property

The control of funds provided under this subchapter, and title to materials, equipment,

and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and a public agency shall administer such funds and property.

(2) Provision of services

The provision of services pursuant to this subchapter shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subchapter shall not be commingled with State or local funds.

(d) State prohibition waiver

If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) Waiver and provision of services

(1) Failure to comply

If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Withholding of allocation

Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d) of this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(f) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b) of this section.

(g) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subchapter.

(h) Review

(1) Written objections

The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

(2) Court action

If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28.

(3) Remand to Secretary

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Court review

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(i) Prior determination

Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994) shall, to the extent consistent with the purposes of this subchapter, apply to programs under this subchapter.

(Pub. L. 89–10, title VI, § 6402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3713.)

REFERENCES IN TEXT

Chapter 2 of title I of this Act (as such chapter was in effect on the day preceding October 20, 1994), referred to in subsec. (i), means chapter 2 of title I of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 203, as amended, which was classified generally to div. 2 (§ 2911 et seq.) of subchapter I of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7332, 7353 of this title.

§ 7373. Federal administration

(a) Technical assistance

The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this subchapter.

(b) Rulemaking

The Secretary shall issue regulations under this subchapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this subchapter.

(c) Availability of appropriations

Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this subchapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

(Pub. L. 89–10, title VI, § 6403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3715.)

SUBCHAPTER VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6661g, 8893, 9252 of this title.

PART A—BILINGUAL EDUCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1401, 6396, 6649, 7545, 7571, 7572, 7573, 7575, 7602 of this title.

§ 7401. Short title

This part may be cited as the ''Bilingual Education Act''.

(Pub. L. 89–10, title VII, § 7101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716.)

§ 7402. Findings, policy, and purpose

(a) Findings

The Congress finds that—

(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

(3) the presence of language-minority Americans is related in part to Federal immigration policies;

(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

(A) segregated education programs;

(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

(6) Native Americans and Native American languages (as such terms are defined in section 2902 of title 25), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this chapter to serve the education needs of language minority students in the United States;

(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

(8) it is the purpose of this subchapter to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

(12) parent and community participation in bilingual education programs contributes to program effectiveness;

(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

(14) the use of a child or youth's native language and culture in classroom instruction can—

(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

(B) benefit English-proficient children and youth who also participate in such programs; and

(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 1703(f) of this title, has a special and continuing obligation to ensure that States and local school districts

take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

(16) the Federal Government also, as exemplified by the Federal Government's efforts under this subchapter, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

(b) Policy

The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

(c) Purpose

The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

(2) developing bilingual skills and multicultural understanding;

(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

(Pub. L. 89–10, title VII, § 7102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(15), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 7403. Authorization of appropriations

(a) In general

For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Distribution

From the sums appropriated under subsection (a) of this section for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3 of this part.

(Pub. L. 89–10, title VII, § 7103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718.)

§ 7404. Native American and Alaska Native children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

(1) "Indian tribe" defined

The term ''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.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) "Tribally sanctioned educational authority" defined

The term ''tribally sanctioned educational authority'' means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

(ii) approved by the Secretary for the purpose of this section.

(b) Eligible entity application

Notwithstanding any other provision of this part, each eligible entity described in subsection (a) of this section shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

(Pub. L. 89–10, title VII, § 7104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (a)(1), is Pub. L. 92–203, Dec. 18, 1971, 85

Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 7405. Residents of territories and freely associated nations

For the purpose of carrying out programs under this part in the outlying areas, the term ''local educational agency'' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

(Pub. L. 89–10, title VII, § 7105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

SUBPART 1—BILINGUAL EDUCATION CAPACITY AND DEMONSTRATION GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7452, 7454, 7456, 8857 of this title.

§ 7421. Financial assistance for bilingual education

The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7422, 7423, 7424, and 7425 of this title to—

(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

(2) to help such children and youth—

(A) develop proficiency in English, and to the extent possible, their native language; and

(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 6311(b) of this title.

(Pub. L. 89–10, title VII, § 7111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

§ 7422. Program development and implementation grants

(a) Purpose

The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (2).

(B) Each grant under this section shall be awarded for a period of three years.

(2) Authorized activities

(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies;

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

(d) Due consideration

In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

(Pub. L. 89–10, title VII, § 7112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7421 of this title.

§ 7423. Program enhancement projects

(a) Purpose

The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (2).

(B) Each grant under this section shall be awarded for a period of two years.

(2) Authorized activities

(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

(B) Grants under this section may be used for—

(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

(v) providing intensified instruction; and

(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies;

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

(Pub. L. 89–10, title VII, § 7113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3720.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7421 of this title.

§ 7424. Comprehensive school grants

(a) Purpose

The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraph (3).

(B) Each grant under this section shall be awarded for five years.

(2) Termination

The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

(A) the program evaluation required by section 7433 of this title indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

(3) Authorized activities

Grants under this section may be used to improve the education of limited English proficient students and their families by—

(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

(E) providing intensified instruction; and

(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

(4) Special rule

A grant recipient, before carrying out a program assisted under this section, shall plan,

train personnel, develop curriculum, and acquire or develop materials.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

(Pub. L. 89–10, title VII, § 7114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3721.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7421, 7426 of this title.

§ 7425. Systemwide improvement grants

(a) Purpose

The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

(b) Program authorized

(1) Authority

(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7426 of this title to enable such entities to carry out activities described in paragraphs (3) and (4).

(B) Each grant under this section shall be awarded for 5 years.

(2) Termination

The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

(A) the program evaluation required by section 7433 of this title indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

(3) Preparation

Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

(4) Uses

Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

(A) educational goals, curriculum guidelines and content, standards and assessments;

(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

(C) student grade-promotion and graduation requirements;

(D) student assignment policies and practices;

(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(H) such other activities, related to the purposes of this part, as the Secretary may approve.

(c) "Eligible entity" defined

For the purpose of this section the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

(Pub. L. 89–10, title VII, § 7115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3722.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7421, 7426 of this title.

§ 7426. Applications

(a) In general

(1) Secretary

To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) State educational agency

An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

(b) State review and comments

(1) Deadline

The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

(2) Comments

(A) Regarding any application submitted under this subchapter, the State educational agency shall—

(i) submit to the Secretary written comments regarding all such applications; and

(ii) submit to each eligible entity the comments that pertain to such entity.

(B) For purposes of this subpart, such comments shall address how the eligible entity—

(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

(ii) how the grant application is consistent with the State plan submitted under section 6311 of this title.

(c) Eligible entity comments

An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(d) Comment consideration

In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

(e) Waiver

Notwithstanding subsection (b) of this section, the Secretary is authorized to waive the review requirement of subsection (b) of this section if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this chapter.

(f) Required documentation

Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

(g) Contents

(1) In general

An application for a grant under this subpart shall contain the following:

(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

(B) A description of the program to be implemented and how such program's design—

(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

(ii) is coordinated with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and other Acts, as appropriate, in accordance with section 8856 of this title;

(iii) involves the parents of the children and youth of limited-English proficiency to be served;

(iv) ensures accountability in achieving high academic standards; and

(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

(E) An assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

(F) A budget for grant funds.

(2) Additional information

Each application for a grant under section 7424 or 7425 of this title shall—

(A) describe—

(i) current services the applicant provides to children and youth of limited-English proficiency;

(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

(v) current family education programs if applicable; and

(B) provide assurances that—

(i) the program funded will be integrated with the overall educational program; and

(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

(h) Approval of applications

An application for a grant under this subpart may be approved only if the Secretary determines that—

(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this subchapter for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] with respect to services to be provided such children;

(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

(i) Priorities and special rules

(1) Priority

The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

(2) Special alternative instructional program

Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

(3) Special rule

Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

(4) Consideration

In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

(5) Due consideration

The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

(Pub. L. 89–10, title VII, § 7116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3723.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (g)(1)(B)(ii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (h)(3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (h)(4), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7422, 7423, 7424, 7425 of this title.

§ 7427. Intensified instruction

In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

(2) expanding the use of professional and volunteer aids;

(3) applying technology to the course of instruction; and

(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

(Pub. L. 89–10, title VII, § 7117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7428. Capacity building

Each recipient of a grant under this subpart shall use the grant in ways that will build such

recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

(Pub. L. 89–10, title VII, § 7118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7429. Subgrants

A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

(Pub. L. 89–10, title VII, § 7119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7430. Priority on funding

The Secretary shall give priority to applications under this subpart that describe a program that—

(1) enrolls a large percentage or large number of limited English proficient students;

(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

(Pub. L. 89–10, title VII, § 7120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727.)

§ 7431. Coordination with other programs

In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts, as appropriate, in accordance with section 8856 of this title.

(Pub. L. 89–10, title VII, § 7121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 7432. Programs for Native Americans and Puerto Rico

Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

(Pub. L. 89–10, title VII, § 7122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

§ 7433. Evaluations

(a) Evaluation

Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

(b) Use of evaluation

Such evaluation shall be used by a grant recipient—

(1) for program improvement;

(2) to further define the program's goals and objectives; and

(3) to determine program effectiveness.

(c) Evaluation components

Evaluations shall include—

(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

(4) such other information as the Secretary may require.

(Pub. L. 89–10, title VII, § 7123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7424, 7425 of this title.

§ 7434. Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title VII, § 7124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728.)

SUBPART 2—RESEARCH, EVALUATION, AND DISSEMINATION

§ 7451. Authority

(a) In general

The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

(b) Competitive awards

Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

(c) Administration

The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

(Pub. L. 89–10, title VII, § 7131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729.)

INFORMATION REGARDING BILINGUAL EDUCATION

Pub. L. 100–297, title VI, § 6213, Apr. 28, 1988, 102 Stat. 429, as amended by Pub. L. 104–66, title I, § 1042(a), Dec. 21, 1995, 109 Stat. 715, provided that: ''The Secretary shall collect data for program management and accountability purposes regarding—

''(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

''(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

''(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

''(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

''(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

''(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.''

§ 7452. Research

(a) Administration

The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

(b) Requirements

Such research activities—

(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of ''limited English proficient student'' for purposes of national data collection; and

(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

(c) Field-initiated research

(1) In general

The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under this subpart or subpart 1 of this part who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

(2) Applications

Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under this subpart or subpart 1 of this part. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

(d) Consultation

The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

(e) Data collection

The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

(Pub. L. 89–10, title VII, § 7132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729.)

RESEARCH RELATING TO BILINGUAL EDUCATION

Section 6211 of title VI of Pub. L. 100–297 provided that:

''(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of high-

er education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

''(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

''(1) studies to determine and evaluate effective models for bilingual education programs;

''(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

''(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 3281 et seq.] on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

''(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

''(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

''(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

''(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

''(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

''(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this [such] title; and

''(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

''(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives.

''(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

''(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.''

§ 7453. Academic excellence awards

(a) Awards

The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

(b) Applications

(1) In general

Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

(2) Peer review

The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

(c) Use of funds

Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

(1) completing the development of such programs;

(2) professional development of staff participating in bilingual education programs;

(3) sharing strategies and materials; and

(4) supporting professional networks.

(d) Coordination

Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of subchapter XIII of this chapter.

(Pub. L. 89–10, title VII, § 7133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730.)

§ 7454. State grant program

(a) State grant program

The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

(b) Payments

The amount paid to a State educational agency under subsection (a) of this section shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 of this part for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

(c) Use of funds

(1) In general

A State educational agency shall use funds awarded under this section for programs authorized by this section to—

(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

(2) Exception

States which do not, as of October 20, 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

(3) Training

The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

(4) Special rule

Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

(d) State consultation

A State educational agency receiving funds under this section shall consult with recipients of grants under this subchapter and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this subchapter.

(e) Applications

A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

(f) Supplement not supplant

Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(g) Report to Secretary

State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

(Pub. L. 89–10, title VII, § 7134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7575 of this title.

§ 7455. National Clearinghouse for Bilingual Education

(a) Establishment

The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

(b) Functions

The National Clearinghouse for Bilingual Education shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of subchapter XIII of this chapter if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

(Pub. L. 89–10, title VII, § 7135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3731.)

§ 7456. Instructional materials development

The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under this subpart and subpart 1 of this part and which are consistent with voluntary national content standards and challenging State content standards.

(Pub. L. 89–10, title VII, § 7136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

SUBPART 3—PROFESSIONAL DEVELOPMENT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7403 of this title.

§ 7471. Purpose

The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children

and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

(Pub. L. 89–10, title VII, § 7141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

§ 7472. Training for all teachers program

(a) Purpose

The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

(b) Authorization

(1) Authority

The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

(2) Duration

Each grant under this section shall be awarded for a period of not more than five years.

(c) Permissible activities

Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under subchapters I and II of this chapter, and under the Head Start Act [42 U.S.C. 9831 et seq.].

(Pub. L. 89–10, title VII, § 7142, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

§ 7473. Bilingual education teachers and personnel grants

(a) Purpose

The purpose of this section is to provide for—

(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

(b) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

(c) Authorization

(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

(Pub. L. 89–10, title VII, § 7143, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733.)

§ 7474. Bilingual education career ladder program

(a) Purpose

The purpose of this section is—

(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

(b) Authorization

(1) In general

The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

(2) Duration

Each grant under this section shall be awarded for a period of not more than five years.

(c) Permissive activities

Grants awarded under this section may be used—

(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

(2) to provide assistance for stipends and costs related to tuition, fees and books for en-

rolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

(d) Special consideration

The Secretary shall give special consideration to applications under this section which provide for—

(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

(2) development of teacher proficiency in English a[1] second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a et seq.], the National Mini Corps under subpart 1 of part F of title V of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

(4) the applicant's contribution of additional student financial aid to participating students.

(Pub. L. 89–10, title VII, § 7144, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Reference to chapter 1 of part A of title IV of the Act probably means a reference to subpart 1 of part A of title IV of the Act which is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of this title. Subpart 3 of part C and subpart 1 of part F of title V of the Act were classified generally to subpart 3 (§ 1106 et seq.) of part C and subpart 1 (§ 1113) of part F, respectively, of subchapter V of chapter 28 of this title, and were omitted in the general amendment of subchapter V of chapter 28 by Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1765. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The National Community and Service Trust Act of 1993, referred to in subsec. (d)(3), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

§ 7475. Graduate fellowships in bilingual education program

(a) Authorization

(1) In general

The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

(2) Number

For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

(3) Information

The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7479 of this title.

(b) Fellowship requirements

(1) In general

Any person receiving a fellowship under this section shall agree to—

(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

(B) repay such assistance.

(2) Regulations

The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

(c) Priority

In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

(Pub. L. 89–10, title VII, § 7145, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3734.)

§ 7476. Application

(a) In general

(1) Secretary

To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) Consultation and assessment

Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

(3) Special rule

(A) An application for a grant under subsection (a) of this section from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that

[1] So in original. Probably should be "and a".

such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

(B) A recipient of a grant under subsection (a) of this section may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

(4) State educational agency

An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

(b) State review and comments

(1) Deadline

The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

(2) Comments

(A) Regarding any application submitted under this subpart, the State educational agency shall—

(i) submit to the Secretary written comments regarding all such applications; and

(ii) submit to each eligible entity the comments that pertain to such entity.

(B) For purposes of this subpart, comments shall address how the eligible entity—

(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

(ii) how the grant application is consistent with the State plan submitted under section 6311 of this title.

(3) Waiver

Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this chapter.

(c) Eligible entity comments

An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(d) Comment consideration

In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

(e) Special rule

(1) Outreach and technical assistance

The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 [20 U.S.C. 1051 et seq.] and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

(2) Distribution rule

In making awards under this subpart, the Secretary, consistent with subsection (d) of this section, shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

(Pub. L. 89–10, title VII, § 7146, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3735.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (e)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title III of the Act is classified generally to subchapter III (§ 1051 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 7477. Program requirements

Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

(Pub. L. 89–10, title VII, § 7147, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

§ 7478. Stipends

The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

(Pub. L. 89–10, title VII, § 7148, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

§ 7479. Program evaluations

Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

(1) post-program placement of persons trained in a program assisted under this subpart;

(2) how the training relates to the employment of persons served by the program;

(3) program completion; and

(4) such other information as the Secretary may require.

(Pub. L. 89–10, title VII, § 7149, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7475 of this title.

§ 7480. Use of funds for second language competence

Awards under this subpart may be used to develop a program participant's competence in a

second language for use in instructional programs.

(Pub. L. 89–10, title VII, § 7150, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

SUBPART 4—TRANSITION

§ 7491. Special rule

Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding October 20, 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding October 20, 1994).

(Pub. L. 89–10, title VII, § 7161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736.)

REFERENCES IN TEXT

Title VII of this Act (as such title was in effect on the day preceding October 20, 1994) and section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding October 20, 1994), referred to in text, means title VII and section 7021(d)(1)(C), respectively, of Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 274, 279, as amended, which were classified to subchapter VII (§ 3281 et seq.) of chapter 47 and section 3291(d)(1)(C), respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

PRIOR PROVISIONS

Provisions similar to those in this part were contained in part B (§ 3001 et seq.) of subchapter II of chapter 47 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, § 101, and in subpart 1 (§ 5011 et seq.) of part A of subchapter I of chapter 62 of this title prior to repeal by Pub. L. 103–382, § 391(i).

§ 7511. Short title

This part may be cited as the ''Foreign Language Assistance Act of 1994''.

(Pub. L. 89–10, title VII, § 7201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7512. Findings

The Congress finds as follows:

(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

(5) Four out of five new jobs in the United States are created from foreign trade.

(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

(Pub. L. 89–10, title VII, § 7202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7513. Program authorized

(a) Program authority

(1) In general

The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

(2) Duration

Each grant under paragraph (1) shall be awarded for a period of three years.

(b) Requirements

(1) Grants to State educational agencies

In awarding a grant under subsection (a) of this section to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

(2) Grants to local educational agencies

In awarding a grant under subsection (a) of this section to a local educational agency, the Secretary shall support programs that—

(A) show the promise of being continued beyond the grant period;

(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

(C) may include a professional development component.

(c) Federal share

(1) In general

The Federal share for each fiscal year shall be 50 percent.

(2) Waiver

The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

(3) Special rule

Not less than three-fourths of the funds appropriated under section 7516 of this title shall be used for the expansion of foreign language learning in the elementary grades.

(4) Reservation

The Secretary may reserve not more than 5 percent of funds appropriated under section 7516 of this title to evaluate the efficacy of programs under this part.

(Pub. L. 89–10, title VII, § 7203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737.)

§ 7514. Applications

(a) In general

Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(b) Special consideration

The Secretary shall give special consideration to applications describing programs that—

(1) include intensive summer foreign language programs for professional development;

(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

(Pub. L. 89–10, title VII, § 7204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738.)

§ 7515. Elementary school foreign language incentive program

(a) Incentive payments

From amounts appropriated under section 7516 of this title the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

(b) Amount

The Secretary shall determine the amount of the incentive payment under subsection (a) of this section for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

(c) Requirement

The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

(Pub. L. 89–10, title VII, § 7205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7516 of this title.

§ 7516. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7515 of this title.

(Pub. L. 89–10, title VII, § 7206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7513, 7515 of this title.

PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5891b, 8857 of this title.

§ 7541. Findings and purpose

(a) Findings

The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

(2) local educational agencies have struggled to fund adequately education services;

(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

(4) immigration policy is solely a responsibility of the Federal Government.

(b) Purpose

The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

(1) provide high-quality instruction to immigrant children and youth; and

(2) help such children and youth—

(A) with their transition into American society; and

(B) meet the same challenging State performance standards expected of all children and youth.

(Pub. L. 89–10, title VII, § 7301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7544, 7545 of this title.

§ 7542. State administrative costs

For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7544 of this title to pay the costs of performing such agency's administrative functions under this part.

(Pub. L. 89–10, title VII, § 7302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

§ 7543. Withholding

Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

(Pub. L. 89–10, title VII, § 7303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739.)

§ 7544. State allocations

(a) Payments

The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7541(b) of this title.

(b) Allocations

(1) In general

Except as provided in subsections (c) and (d) of this section, of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

(2) Eligible local educational agencies

The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

(A) at least 500; or

(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

(c) Determinations of number of children and youth

(1) In general

Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) Special rule

No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

(d) Reallocation

Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b) of this section) for such year, but shall remain available until the end of the succeeding fiscal year.

(e) Reservation of funds

(1) In general

Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2) of this section) within the State with the highest numbers and percentages of immigrant children and youth.

(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

(2) Use of grant funds

Each local educational agency receiving a grant under paragraph (1) shall use such grant

funds to carry out the activities described in section 7547 of this title.

(3) Information

Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

(Pub. L. 89–10, title VII, § 7304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7542, 7545, 7546 of this title.

§ 7545. State applications

(a) Submission

No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this part will be used for purposes set forth in sections 7541 and 7547 of this title, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this chapter, the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and other Acts as appropriate;

(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A of this subchapter or subchapter I of this chapter;

(4) provide assurances that such payments, with the exception of payments reserved under section 7544(e) of this title, will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7544(b)(1) of this title;

(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

(7) provide assurances—

(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

(8) provide that funds reserved under subsection (e) of section 7544 of this title be awarded on a competitive basis based on merit and need in accordance with such subsection; and

(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 6321(b) of this title.

(b) Application review

(1) In general

The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

(2) Approval

The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) Disapproval

The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

(Pub. L. 89–10, title VII, § 7305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3741.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(2), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7546 of this title.

§ 7546. Administrative provisions

(a) Notification of amount

The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7545 of this title of the amount of such agency's allocation under section 7544 of this title for the succeeding year.

(b) Services to children enrolled in nonpublic schools

If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7545(a)(7) of this title, or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of subchapter I of this chapter.

(Pub. L. 89–10, title VII, § 7306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743.)

§ 7547. Uses of funds

(a) Use of funds

Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

(b) Consortia

A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

(c) Subgrants

A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

(d) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title VII, § 7307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3743.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7544, 7545 of this title.

§ 7548. Reports

(a) Biennial report

Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress

The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 8941 of this title.

(Pub. L. 89–10, title VII, § 7308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7549. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title VII, § 7309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

PART D—ADMINISTRATION

§ 7571. Release time

The Secretary shall allow professional development programs funded under part A of this subchapter to use funds provided under part A of this subchapter for professional release time to enable individuals to participate in programs assisted under part A of this subchapter.

(Pub. L. 89–10, title VII, § 7401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7572. Education technology

Funds made available under part A of this subchapter may be used to provide for the acquisi-

tion or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this subchapter.

(Pub. L. 89–10, title VII, § 7402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7573. Notification

The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A of this subchapter is made to an eligible entity within the State.

(Pub. L. 89–10, title VII, § 7403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7574. Continued eligibility

Entities receiving grants under this subchapter shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this subchapter. In considering applications for grants under this subchapter, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this subchapter.

(Pub. L. 89–10, title VII, § 7404, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

§ 7575. Coordination and reporting requirements

(a) Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under subchapter I of this chapter and other programs under this chapter, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

(b) Data

The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

(c) Publication of proposals

The Secretary shall publish and disseminate all requests for proposals for programs funded under part A of this subchapter.

(d) Report

The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

(1) the activities carried out under this subchapter and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

(2) a critical synthesis of data reported by the States pursuant to section 7454 of this title;

(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

(4) the major findings of research carried out under this subchapter; and

(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

(Pub. L. 89–10, title VII, § 7405, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

PART E—GENERAL PROVISIONS

§ 7601. Definitions; regulations

Except as otherwise provided, for purposes of this subchapter—

(1) Bilingual education program

The term ''bilingual education program'' means an educational program for limited English proficient students that—

(A) makes instructional use of both English and a student's native language;

(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

(D) may include the participation of English-proficient students if such program

is designed to enable all enrolled students to become proficient in English and a second language.

(2) Children and youth

The term ''children and youth'' means individuals aged 3 through 21.

(3) Community-based organization

The term ''community-based organization'' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding October 20, 1994.

(4) Community college

The term ''community college'' means an institution of higher education as defined in section 1001 of this title which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(5) Director

The term ''Director'' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 3420[1] of this title.

(6) Family education program

(A) The term ''family education program'' means a bilingual education or special alternative instructional program that—

(i) is designed—

(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

(iii) gives preference to participation by parents and immediate family members of children attending school.

(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

(7) Immigrant children and youth

The term ''immigrant children and youth'' means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than three full academic years.

(8) Limited English proficiency and limited English proficient

The terms ''limited English proficiency'' and ''limited English proficient'', when used with reference to an individual, mean an individual—

(A) who—

(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(9) Native American and Native American language

The terms ''Native American'' and ''Native American language'' shall have the same meaning given such terms in section 2902 of title 25.

(10) Native Hawaiian or Native American Pacific Islander native language educational organization

The term ''Native Hawaiian or Native American Pacific Islander native language educational organization'' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

(11) Native language

The term ''native language'', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

(12) Office

The term ''Office'' means the Office of Bilingual Education and Minority Languages Affairs.

(13) Other programs for persons of limited-English proficiency

The term ''other programs for persons of limited-English proficiency'' means any pro-

[1] See References in Text note below.

grams administered by the Secretary that serve persons of limited-English proficiency.

(14) Paraprofessional

The term ''paraprofessional'' means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

(15) Special alternative instructional program

The term ''special alternative instructional program'' means an educational program for limited English proficient students that—

(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

(Pub. L. 89–10, title VII, § 7501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3745; amended Pub. L. 105–244, title I, § 102(a)(6)(J), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1619, 1828.)

REFERENCES IN TEXT

Section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, as such Act was in effect on the day preceding October 20, 1994, referred to in par. (3), means section 4009 of Pub. L. 100–297, which was classified to section 4909 of this title prior to repeal by Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975.

The Tribally Controlled College or University Assistance Act of 1978, referred to in par. (4), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

Section 3420 of this title, referred to in par. (5), was in the original ''section 210 of the Department of Education Organization Act'', meaning section 210 of Pub. L. 96–88, which was translated as reading section 209 of that Act to reflect the probable intent of Congress and the renumbering of section 210 as section 209 by Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.

AMENDMENTS

1998—Par. (4). Pub. L. 105–244, § 901(d), substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

Pub. L. 105–244, § 102(a)(6)(J), substituted ''section 1001'' for ''section 1141(a)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 12899f.

§ 7602. Regulations and notification

(a) Regulation rule

In developing regulations under this subchapter, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

(b) Parental notification

(1) In general

Parents of children and youth participating in programs assisted under part A of this subchapter shall be informed of—

(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

(ii) the reasons for the selection of their child as being in need of bilingual education.

(2) Option to decline

(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] because parents choose not to enroll their children in bilingual education programs.

(3) Receipt of information

Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

(A) timely information about projects funded under part A of this subchapter; and

(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

(4) Special rule

Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.

(Pub. L. 89–10, title VII, § 7502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3748.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(2)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SUBCHAPTER VIII—IMPACT AID

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in chapters 13 (§ 236 et seq.) and 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, § 331.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1228, 8802, 8892 of this title.

§ 7701. Purpose

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 574 of title 50, Appendix, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this subchapter to provide financial assistance to local educational agencies that—

(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

(2) educate children who reside on Federal property and whose parents are employed on Federal property;

(3) educate children of parents who are in the military services and children who live in low-rent housing;

(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property; or

(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property.

(Pub. L. 89–10, title VIII, § 8001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802], Oct. 30, 2000, 114 Stat. 1654, 1654A–368.)

AMENDMENTS

2000—Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(1)], in introductory provisions, inserted ''in a manner that promotes control by local educational agencies with little or no Federal or State involvement'' after ''educational services to federally connected children'' and '', such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 574 of title 50, Appendix,'' after ''certain activities of the Federal Government''.

Par. (4). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(2)], inserted ''or'' at end.

Pars. (5), (6). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(3)–(5)], redesignated par. (6) as (5), inserted ''and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property'' before period at end, and struck out former par. (5) which read as follows: ''experience sudden and substantial increases or decreases in enrollments because of military realignments; or''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1818], Oct. 30, 2000, 114 Stat. 1654, 1654A–389, provided that: ''This title [amending this section and sections 1228, 7702, 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes under sections 6301, 7703, and 7711 of this title], and the amendments made by this title, shall take effect on October 1, 2000, or the date of the enactment of this Act [Oct. 30, 2000], whichever occurs later.''

EFFECTIVE DATE

Subchapter effective Oct. 20, 1994, except that provisions that apply to programs under this subchapter, and to programs that are conducted on a competitive basis, effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years, see section 3(a)(1) of Pub. L. 103–382 set out as a note under section 6301 of this title.

§ 7702. Payments relating to Federal acquisition of real property

(a) In general

Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 2003—

(1) that the United States owns Federal property in the local educational agency, and that such property—

(A) has been acquired by the United States since 1938;

(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

(II) State law requires an assessment be made of property so acquired; and

(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b) of this section.

(b) Amount

(1) In general

(A)(i)(I) Subject to subclauses (II) and (III), the amount that a local educational agency shall be paid under subsection (a) of this section for a fiscal year shall be calculated in accordance with paragraph (2).

(II) Except as provided in subclause (III), the Secretary may not reduce the amount of a payment under this section to a local educational agency for a fiscal year by (aa) the amount equal to the amount of revenue, if any, the agency received during the previous fiscal year from activities conducted on Federal property eligible under this section and located in a school district served by the agency, including amounts received from any Federal department or agency (other than the Department of Education) from such activities, by reason of receipt of such revenue, or (bb) any other amount by reason of receipt of such revenue.

(III) If the amount equal to the sum of (aa) the proposed payment under this section to a local educational agency for a fiscal year and (bb) the amount of revenue described in subclause (II)(aa) received by the agency during the previous fiscal year, exceeds the maximum amount the agency is eligible to receive under this section for the fiscal year involved, then the Secretary shall reduce the amount of the proposed payment under this section by an amount equal to such excess amount.

(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(I) the operation of a domestic dependent elementary or secondary school; or

(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(B) If funds appropriated under section 7714(a) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section.

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 7703(b) of this title, exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 7703(b)(1)(C) of this title, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.

(2) Application of current levied real property tax rate

In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

(3) Determination of aggregate assessed value

Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

(c) Applicability to Tennessee Valley Authority Act

For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831*l*] shall not be regarded as Federal property.

(d) Ownership by United States

The United States shall be deemed to own Federal property for the purposes of this chapter, where—

(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1) of this section; and

(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

(A) restricts some or any construction on such property;

(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

(E) reserves to the Federal Government a right of reversion at any time the Federal

Government (or its agent) deems it necessary for the national defense.

(e) Local educational agency containing Forest Service land and serving certain counties

Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) of this section if such local educational agency meets the following requirements:

(1) Acreage and acquisition by the Forest Service

The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

(2) County charter

The local educational agency serves a county chartered under State law in 1875 or 1890.

(f) Special rule

(1) Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local educational agency serving the Wheatland R–II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C) of this section.

(2) For each fiscal year beginning with fiscal year 1999, the Secretary shall treat the Webster School District, Day County, South Dakota as meeting the eligibility requirements of subsection (a)(1)(C) of this section.

(3) For each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Central Union, California; Island, California; Hill City, South Dakota; and Wall, South Dakota local educational agencies as meeting the eligibility requirements of subsection (a)(1)(C) of this section.

(4) For the purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hot Springs, South Dakota local educational agency as if it had filed a timely application under this section for fiscal year 1994 if the Secretary has received the fiscal year 1994 application, as well as Exhibits A and B not later than December 1, 1999.

(5) For purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hueneme, California local educational agency as if it had filed a timely application under this section if the Secretary has received the fiscal year 1995 application not later than December 1, 1999.

(g) Former districts

(1) In general

Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 7705 of this title) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

(h) Payments with respect to fiscal years in which insufficient funds are appropriated.

For any fiscal year for which the amount appropriated under section 7714(a) of this title is insufficient to pay to each eligible local educational agency the full amount determined under subsection (b) of this section, the Secretary shall make payments to each local educational agency under this section as follows:

(1) Foundation payments for pre-1995 recipients

(A) In general

The Secretary shall first make a foundation payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved and was eligible to receive a payment under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) for any of the fiscal years 1989 through 1994.

(B) Amount

The amount of a payment under subparagraph (A) for a local educational agency shall be equal to 38 percent of the local educational agency's maximum entitlement amount under section 2 of the Act of September 30, 1950, for fiscal year 1994 (or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994, the local educational agency's maximum entitlement amount under such section 2 for the most recent fiscal year preceding 1994).

(C) Insufficient appropriations

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) Payments for 1995 recipients

(A) In general

From any amounts remaining after making payments under paragraph (1) for the fis-

cal year involved, the Secretary shall make a payment to each eligible local educational agency that received a payment under this section for fiscal year 1995.

(B) Amount

The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the difference between the amount appropriated to carry out this section for fiscal year 1995 and the total amount of foundation payments made under paragraph (1) for the fiscal year.

(ii) Determine the percentage share for each local educational agency that received a payment under this section for fiscal year 1995 by dividing the assessed value of the Federal property of the local educational agency for fiscal year 1995 determined in accordance with subsection (b)(3) of this section, by the total eligible national assessed value of the eligible Federal property of all such local educational agencies for fiscal year 1995, as so determined.

(iii) Multiply the percentage share described in clause (ii) for the local educational agency by the amount determined under clause (i).

(3) Subsection (i) recipients

From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make payments in accordance with subsection (i) of this section.

(4) Remaining funds

From any funds remaining after making payments under paragraphs (1), (2), and (3) for the fiscal year involved—

(A) the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) for the fiscal year involved in an amount that bears the same relation to 25 percent of the remainder as the amount the local educational agency received under paragraph (1) for the fiscal year involved bears to the amount all local educational agencies received under paragraph (1) for the fiscal year involved; and

(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency (in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii)) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that for the purpose of calculating a local educational agency's assessed value of the Federal property, data from the most current fiscal year shall be used.

(i) Special payments

(1) In general

For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) of this section applies, the Secretary shall use the remainder described in subsection (h)(3) of this section for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2).

(2) Local educational agency described

A local educational agency described in this paragraph is a local educational agency that—

(A) received a payment under this section for fiscal year 1996;

(B) serves a school district that contains all or a portion of a United States military academy;

(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(j) Additional assistance for certain local educational agencies impacted by Federal property acquisition

(1) Reservation

From amounts appropriated under section 7714(g) of this title for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

(2) Eligibility

A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

(A) received a payment under both this section and section 7703(b) of this title for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

(B) provided a free public education to children described under sections[1] 7703(a)(1)(A), (B), or (D) of this title;

(C) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment and, at the time at which the agency is applying for a payment under this subsection, the

[1] So in original. Probably should be "section".

agency does not have a military installation located within its geographic boundaries;

(D) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and

(E) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(3) Maximum amount

(A) The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year, when combined with its payment under subsection (b) of this section, shall not be more than 50 percent of the maximum amount determined under subsection (b) of this section;

(B) If funds appropriated under section 7714(g) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each local education agency eligible under this subsection;

(C) If funds appropriated under section 7714(g) of this title are in excess of the amount determined under subparagraph (A) the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under subsection (b) of this section.

(k) Special rule

For purposes of payments under this section for each fiscal year beginning with fiscal year 1998—

(1) the Secretary shall, for the Stanley County, South Dakota local educational agency, calculate payments as if subsection (e) of this section had been in effect for fiscal year 1994; and

(2) the Secretary shall treat the Delaware Valley, Pennsylvania local educational agency as if it had filed a timely application under section 2 of Public Law 81–874 for fiscal year 1994.

(*l*) Prior year data

Notwithstanding any other provision of this section, in determining the eligibility of a local educational agency for a payment under subsection (b) or (h)(4)(B) of this section for a fiscal year, and in calculating the amount of such payment, the Secretary—

(1) shall use data from the prior fiscal year with respect to the Federal property involved, including data with respect to the assessed value of the property and the real property tax rate for current expenditures levied against or imputed to the property; and

(2) shall use data from the second prior fiscal year with respect to determining the amount of revenue referred to in subsection (b)(1)(A)(i) of this section.

(m) Eligibility

(1) Old Federal property

Except as provided in paragraph (2), a local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government, before October 30, 2000, shall be eligible to receive the payment only if the local educational agency submits an application for a payment under this section not later than 5 years after October 30, 2000.

(2) Combined Federal property

A local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government before October 30, 2000, shall be eligible to receive the payment if—

(A) the Federal property, when combined with other Federal property in the school district served by the local educational agency acquired by the Federal Government after October 30, 2000, meets the requirements of subsection (a) of this section; and

(B) the local educational agency submits an application for a payment under this section not later than 5 years after the date of acquisition of the Federal property acquired after October 30, 2000.

(3) New Federal property

A local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government after October 30, 2000, shall be eligible to receive the payment only if the local educational agency submits an application for a payment under this section not later than 5 years after the date of acquisition.

(Pub. L. 89–10, title VIII, § 8002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 104–195, §§ 1, 6, Sept. 16, 1996, 110 Stat. 2379, 2382; Pub. L. 105–18, title VI, §§ 60004, 60006, June 12, 1997, 111 Stat. 214, 215; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 105–277, div. A, § 101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–365; Pub. L. 106–113, div. B, § 1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–247; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803], Oct. 30, 2000, 114 Stat. 1654, 1654A–369.)

REFERENCES IN TEXT

Section 2 of the Act of September 30, 1950 and section 2 of Public Law 81–874, referred to in subsecs. (f)(1), (g)(2), (h)(1)(A), (B), and (k)(2), means section 2 of act Sept. 30, 1950, ch. 1124, which was classified to section 237 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(a)], substituted ''2003'' for ''1999'' in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(b)(1)], designated existing provisions as subcl. (I), substituted ''Subject to subclauses (II) and (III), the amount'' for ''The amount'', struck out '', except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such

Federal property'' after ''in accordance with paragraph (2)'', and added subcls. (II) and (III).

Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(2)], substituted ''shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section'' for ''shall ratably reduce the payment to each eligible local educational agency''.

Subsec. (b)(1)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(3)], inserted before period at end '', or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater''.

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(c)], amended heading and text generally. Prior to amendment, subsec. (h) required the Secretary to pay under subsec. (b) of this section to eligible local education agencies certain minimum amounts for fiscal years 1995 to 2000.

Subsec. (i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(2)], substituted ''Special'' for ''Priority'' in heading.

Subsec. (i)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

''(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2); and

''(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.''

Subsec. (j)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(e)], struck out ''(A)'' before ''A local educational agency'', redesignated cls. (i) to (v) as subpars. (A) to (E), respectively, and inserted ''and, at the time at which the agency is applying for a payment under this subsection, the agency does not have a military installation located within its geographic boundaries'' before the semicolon at the end of subpar. (C).

Subsec. (*l*). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(f)], added subsec. (*l*).

Subsec. (m). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(g)], added subsec. (m).

1999—Subsec. (f)(3) to (5). Pub. L. 106–113 added pars. (3) to (5).

1998—Subsec. (f). Pub. L. 105–277 designated existing provisions as par. (1) and added par. (2).

Subsec. (k). Pub. L. 105–277 added subsec. (k).

1997—Subsec. (h)(1)(C). Pub. L. 105–18, §60004, added subpar. (C).

Subsec. (i). Pub. L. 105–18, §60006, amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency that—

''(1) received a payment under this section for fiscal year 1996;

''(2) serves a school district that contains all or a portion of a United States military academy;

''(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''

Subsec. (j). Pub. L. 105–78 added subsec. (j).

1996—Subsecs. (g), (h). Pub. L. 104–195, §1, added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–195, §6, added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7703, 7705, 7707, 7709, 7714 of this title.

§ 7703. Payments for eligible federally connected children

(a) Computation of payment

(1) In general

For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b) or (d) of this section for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37);

(C) resided on Indian lands;

(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37) but did not reside on Federal property; or

(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

(E) resided in low-rent housing;

(F) resided on Federal property and is not described in subparagraph (A) or (B); or

(G) resided with a parent employed on Federal property situated—

(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

(ii) if not in such county, in whole or in part in the same State as such agency.

(2) Determination of weighted student units

For the purpose of computing the basic support payment under subsection (b) of this section, the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

(i) a number of such children described in such subparagraphs which exceeds 6,500; and

(ii) an average daily attendance for all children which exceeds 100,000.

(D) Multiply the number of children described in subparagraph (D) of paragraph (1) by a factor of .20.

(E) Multiply the number of children described in subparagraph (E) of paragraph (1) by a factor of .10.

(F) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

(3) Special rule

The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 1,000 or such number equals or exceeds 10 percent of the total number of students in average daily attendance in the schools of such agency.

(4) Military installation and Indian housing undergoing renovation or rebuilding

(A) In general

(i) For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal property in accordance with paragraph (1)(B) except that such housing was undergoing renovation or rebuilding on the date for which the Secretary determines the number of children under paragraph (1).

(ii) For purposes of computing the amount of a payment for a local educational agency that received a payment for children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application, the Secretary shall consider such children to be children described in paragraph (1)(C) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of the Interior or the Secretary of Housing and Urban Development, that such children would have resided in housing on Indian lands in accordance with paragraph (1)(C) except that such housing was undergoing renovation or rebuilding on the date for which the Secretary determines the number of children under paragraph (1).

(B) Limitations

(i)(I) Children described in paragraph (1)(D)(i) may be deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A)(i) for a period not to exceed 3 fiscal years.

(II) The number of children described in paragraph (1)(D)(i) who are deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A)(i) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.

(ii)(I) Children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application may be deemed to be children described in paragraph (1)(C) with respect to housing on Indian lands undergoing renovation or rebuilding in accordance with subparagraph (A)(ii) for a period not to exceed 3 fiscal years.

(II) The number of children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application who are deemed to be children described in paragraph (1)(C) with respect to housing on Indian lands undergoing renovation or rebuilding in accordance with subparagraph (A)(ii) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.

(5) Military "Build to Lease" program housing

(A) In general

For purposes of computing the amount of payment for a local educational agency for children identified under paragraph (1), the Secretary shall consider children residing in housing initially acquired or constructed under the former section 2828(g) of title 10 (commonly known as the ''Build to Lease'' program), as added by section 801 of the Military Construction Authorization Act, 1984, to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated.

(B) Additional requirements

If the property described in subparagraph (A) is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for a local educational agency that is applying to receive a payment under this section, then the Secretary—

(i) shall require the local educational agency to provide certification from an appropriate official of the Department of Defense that the property is being used to provide military housing; and

(ii) shall reduce the amount of the payment under this section by an amount

equal to the amount of revenue from such taxation received in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency.

(b) Basic support payments; insufficient appropriations; State with only one local educational agency

(1) Basic support payments

(A) In general

From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a) of this section.

(B) Eligibility

A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the number of children so determined with respect to such agency amounts to the lesser of—

(i) at least 400 such children; or

(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

(C) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section, multiplied by the greater of—

(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

(D) Data

If satisfactory data from the third preceding fiscal year are not available for any of the expenditures described in clause (i) or (ii) of subparagraph (C), the Secretary shall use data from the most recent fiscal year for which data that are satisfactory to the Secretary are available.

(E) Special rule

For purposes of determining the comparable local contribution rate under subparagraph (C)(iii) for a local educational agency described in section 222.39(c)(3) of title 34, Code of Federal Regulations, that had its comparable local contribution rate for fiscal year 1998 calculated pursuant to section 222.39 of title 34, Code of Federal Regulations, the Secretary shall determine such comparable local contribution rate as the rate upon which payments under this subsection for fiscal year 2000 were made to the local educational agency adjusted by the percentage increase or decrease in the per pupil expenditure in the State serving the local educational agency calculated on the basis of the second most recent preceding school year compared to the third most recent preceding school year for which school year data are available.

(F) Increase in local contribution rate due to unusual geographic factors

If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subparagraph (C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency under subparagraph (C)(iii) by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

(2) Basic support payments for heavily impacted local educational agencies

(A) In general

(i) From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a) of this section.

(ii) A local educational agency that receives a basic support payment under this paragraph for a fiscal year shall not be eligible to receive a basic support payment under paragraph (1) for that fiscal year.

(B) Eligibility for continuing heavily impacted local educational agencies

(i) In general

A heavily impacted local educational agency is eligible to receive a basic sup-

port payment under subparagraph (A) with respect to a number of children determined under subsection (a)(1) of this section if the agency—

(I) received an additional assistance payment under subsection (f) of this section (as such subsection was in effect on the day before October 30, 2000) for fiscal year 2000; and

(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation;

(bb) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency which is not less than 35 percent, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or the average per-pupil expenditure of all States (whichever average per-pupil expenditure is greater), except that a local educational agency with a total student enrollment of less than 350 students shall be deemed to have satisfied such per-pupil expenditure requirement, and has a tax rate for general fund purposes which is not less than 95 percent of the average tax rate for general fund purposes of local educational agencies in the State;

(cc) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency which is not less than 30 percent, and has a tax rate for general fund purposes which is not less than 125 percent of the average tax rate for general fund purposes for comparable local educational agencies in the State;

(dd) has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in subsection (a)(1) of this section and not less than 6,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1) of this section; or

(ee) meets the requirements of subsection (f)(2) of this section applying the data requirements of subsection (f)(4) of this section (as such subsections were in effect on the day before October 30, 2000).

(ii) Loss of eligibility

A heavily impacted local educational agency that met the requirements of clause (i) for a fiscal year shall be ineligible to receive a basic support payment under subparagraph (A) if the agency fails to meet the requirements of clause (i) for a subsequent fiscal year, except that such agency shall continue to receive a basic support payment under this paragraph for the fiscal year for which the ineligibility determination is made.

(iii) Resumption of eligibility

A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of clause (i) for that subsequent fiscal year, except that such agency shall not receive a basic support payment under this paragraph until the fiscal year succeeding the fiscal year for which the eligibility determination is made.

(C) Eligibility for new heavily impacted local educational agencies

(i) In general

A heavily impacted local educational agency that did not receive an additional assistance payment under subsection (f) of this section (as such subsection was in effect on the day before October 30, 2000) for fiscal year 2000 is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the agency is a local educational agency whose boundaries are the same as a Federal military installation, or the agency—

(I) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency that—

(aa) is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection; or

(bb) is not less than 40 percent if such agency does not receive a payment on behalf of such children;

(II)(aa) for a local educational agency that has a total student enrollment of 350 or more students, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located; or

(bb) for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local educational agency in the State in which the agency is located; and

(III) has a tax rate for general fund purposes that is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State.

(ii) Resumption of eligibility

A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency is a local educational agency whose boundaries are the same as a Federal military installation, or meets the requirements of clause (i), for that subse-

quent fiscal year, except that such agency shall continue to receive a basic support payment under this paragraph for the fiscal year for which the ineligibility determination is made.

(iii) Application

With respect to the first fiscal year for which a heavily impacted local educational agency described in clause (i) applies for a basic support payment under subparagraph (A), or with respect to the first fiscal year for which a heavily impacted local educational agency applies for a basic support payment under subparagraph (A) after becoming ineligible under clause (i) for 1 or more preceding fiscal years, the agency shall apply for such payment at least 1 year prior to the start of that first fiscal year.

(D) Maximum amount for regular heavily impacted local educational agencies

(i) Except as provided in subparagraph (E), the maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section and subject to clause (ii), multiplied by the greater of—

(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

(ii)(I) For a local educational agency with respect to which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1) of this section, the Secretary shall calculate the weighted student units of such children for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 0.55.

(II) For a local educational agency that has an enrollment of 100 or fewer children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 1.75.

(III) For a local educational agency that has an enrollment of more than 100 but not more than 750 children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 1.25.

(E) Maximum amount for large heavily impacted local educational agencies

(i)(I) Subject to clause (ii), the maximum amount that a heavily impacted local educational agency described in subclause (II) is eligible to receive under this paragraph for any fiscal year shall be determined in accordance with the formula described in paragraph (1)(C).

(II) A heavily impacted local educational agency described in this subclause is a local educational agency that has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in subsection (a)(1) of this section and not less than 6,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1) of this section.

(ii) For purposes of calculating the maximum amount described in clause (i), the factor used in determining the weighted student units under subsection (a)(2) of this section with respect to children described in subparagraphs (A) and (B) of subsection (a)(1) of this section shall be 1.35.

(F) Data

For purposes of providing assistance under this paragraph the Secretary—

(i) shall use student, revenue, expenditure, and tax data from the third fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this paragraph; and

(ii) except as provided in subparagraph (C)(i)(I), shall include all of the children described in subparagraphs (F) and (G) of subsection (a)(1) of this section enrolled in schools of the local educational agency in determining (I) the eligibility of the agency for assistance under this paragraph, and (II) the amount of such assistance if the number of such children meet the requirements of subsection (a)(3) of this section.

(G) Determination of average tax rates for general fund purposes

For the purpose of determining average tax rates for general fund purposes for local educational agencies in a State under this paragraph (except under subparagraph (C)(i)(II)(bb)), the Secretary shall use either—

(i) the average tax rate for general fund purposes for comparable local educational agencies, as determined by the Secretary in regulations; or

(ii) the average tax rate of all the local educational agencies in the State.

(3) Payments with respect to fiscal years in which insufficient funds are appropriated

(A) In general

For any fiscal year in which the sums appropriated under section 7714(b) of this title are insufficient to pay to each local educational agency the full amount computed under paragraphs (1) and (2), the Secretary shall make payments in accordance with this paragraph.

(B) Learning opportunity threshold payments in lieu of payments under paragraph (1)

(i) For fiscal years described in subparagraph (A), the Secretary shall compute a

learning opportunity threshold payment (hereafter in this subchapter referred to as the ''threshold payment'') in lieu of basic support payments under paragraph (1) by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) of this section and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph, and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.

(C) Learning opportunity threshold payments in lieu of payments under paragraph (2)

For fiscal years described in subparagraph (A), the learning opportunity threshold payment in lieu of basic support payments under paragraph (2) shall be equal to the amount obtained under subparagraph (D) or (E) of paragraph (2), as the case may be.

(D) Ratable distribution

For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computations made under subparagraphs (B) and (C).

(4) States with only one local educational agency

(A) In general

In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection, and subsection (e) of this section, consider each administrative school district in the State to be a separate local educational agency.

(B) Computation of maximum amount of basic support payment and threshold payment

In computing the maximum payment amount under paragraph (1)(C) or subparagraph (D) or (E) of paragraph (2), as the case may be, and the learning opportunity threshold payment under subparagraph (B) or (C) of paragraph (3), as the case may be, for an administrative school district described in subparagraph (A)—

(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

(ii) the Secretary shall then—

(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.

(5) Local educational agencies affected by removal of Federal property

(A) In general

In computing the amount of a basic support payment under this subsection for a fiscal year for a local educational agency described in subparagraph (B), the Secretary shall meet the additional requirements described in subparagraph (C).

(B) Local educational agency described

A local educational agency described in this subparagraph is a local educational agency with respect to which Federal property (i) located within the boundaries of the agency, and (ii) on which one or more children reside who are receiving a free public education at a school of the agency, is transferred by the Federal Government to another entity in any fiscal year beginning on or after October 30, 2000, so that the property is subject to taxation by the State or a political subdivision of the State.

(C) Additional requirements

The additional requirements described in this subparagraph are the following:

(i) For each fiscal year beginning after the date on which the Federal property is transferred, a child described in subpara-

graph (B) who continues to reside on such property and who continues to receive a free public education at a school of the agency shall be deemed to be a child who resides on Federal property for purposes of computing under the applicable subparagraph of subsection (a)(1) of this section the amount that the agency is eligible to receive under this subsection.

(ii)(I) For the third fiscal year beginning after the date on which the Federal property is transferred, and for each fiscal year thereafter, the Secretary shall, after computing the amount that the agency is otherwise eligible to receive under this subsection for the fiscal year involved, deduct from such amount an amount equal to the revenue received by the agency for the immediately preceding fiscal year as a result of the taxable status of the former Federal property.

(II) For purposes of determining the amount of revenue to be deducted in accordance with subclause (I), the local educational agency—

(aa) shall provide for a review and certification of such amount by an appropriate local tax authority; and

(bb) shall submit to the Secretary a report containing the amount certified under item (aa).

(c) Prior year data

(1) In general

Except as provided in subsections (b)(1)(D), (b)(2), and paragraph (2), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

(2) Exception

Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment.

(d) Children with disabilities

(1) In general

From the amount appropriated under section 7714(c) of this title for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) of this section who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) of this section who are eligible to receive services under such Act by a factor of 0.5.

(2) Use of funds

A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(e) Hold harmless

(1) In general

Subject to paragraphs (2) and (3), the total amount the Secretary shall pay a local educational agency under subsection (b) of this section—

(A) for fiscal year 2001 shall not be less than 85 percent of the total amount that the local educational agency received under subsections (b) and (f) of this section for fiscal year 2000; and

(B) for fiscal year 2002 shall not be less than 70 percent of the total amount that the local educational agency received under subsections (b) and (f) of this section for fiscal year 2000.

(2) Maximum amount

The total amount provided to a local educational agency under subparagraph (A) or (B) of paragraph (1) for a fiscal year shall not exceed the maximum basic support payment amount for such agency determined under paragraph (1) or (2) of subsection (b) of this section, as the case may be.

(3) Ratable reductions

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) for such year, then the Secretary shall ratably reduce the payments to all such agencies for such year.

(B) Additional funds

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(f) Other funds

Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 386 of the National Defense Authorization Act for Fiscal Year 1993 or such section's successor authority.

(g) Maintenance of effort

A local educational agency may receive funds under subsection (b) of this section and section 7702 of this title for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(Pub. L. 89–10, title VIII, § 8003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3752; amended Pub. L. 104–106, div. A, title X, § 1074(f), (g), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L.

104–195, §§ 3(a), 4(a), 5(a), (b), Sept. 16, 1996, 110 Stat. 2380–2382; Pub. L. 104–201, div. A, title III, § 376, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 307(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, § 60005(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1497; Pub. L. 106–398, § 1 [[div. A], title XVIII, §§ 1804(a), (b)(1), (c), 1805–1808(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–372, 1654A–374 to 1654A–382; Pub. L. 106–554, § 1(a)(1) [title III, § 323], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

REFERENCES IN TEXT

Section 2828(g) of title 10 (commonly known as the ''Build to Lease'' program), as added by section 801 of the Military Construction Authorization Act, 1984, referred to in subsec. (a)(5)(A), means the subsection (g) added to section 2828 of Title 10, Armed Forces, by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, § 2806(b), Dec. 5, 1991, 105 Stat. 1540.

Act of September 30, 1950, referred to in subsec. (b)(1)(C)(iii), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 386 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (f), is section 386 of Pub. L. 102–484, which is set out as a note below.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 238 of this title prior to repeal by Pub. L. 103–382, § 331(b).

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(1)], substituted ''subsection (b) or (d)'' for ''subsection (b), (d), or (f)'' in introductory provisions.

Subsec. (a)(2)(D). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(a)(1)(B)], substituted ''subparagraph (D) of paragraph (1) by a factor of .20'' for ''subparagraphs (D) and (E) of paragraph (1) by a factor of .10''.

Subsec. (a)(2)(E), (F). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(a)(1)(A), (C)], added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (a)(4). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(b)(1)], inserted ''and Indian'' after ''Military installation'' and ''or rebuilding'' after ''renovation'' in par. heading, designated existing provisions as subpar. (A)(i), inserted subpar. (A) heading, inserted ''or rebuilding'' after ''undergoing renovation'', added cl. (ii) to subpar. (A) and added subpar. (B).

Subsec. (a)(5). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(c)], added par. (5).

Subsec. (b)(1)(C). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(2)(A)], substituted ''this paragraph'' for ''this subsection'' in introductory provisions.

Subsec. (b)(1)(D), (E). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(a)(2)], added subpars. (D) and (E).

Subsec. (b)(1)(F). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1805], added subpar. (F).

Subsec. (b)(2). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(a)(2)], added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(F). Pub. L. 106–554, § 1(a)(1) [title III, § 323(a)], substituted ''the Secretary—'' for ''the Secretary'', designated remaining provisions as cl. (i), and added cl. (ii).

Subsec. (b)(2)(G). Pub. L. 106–554, § 1(a)(1) [title III, § 323(b)], added subpar. (G).

Subsec. (b)(3). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(a)(1)], redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(A). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(1)], substituted ''paragraphs (1) and (2)'' for ''paragraph (1)''.

Subsec. (b)(3)(B). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(2)(A)], inserted ''in lieu of payments under paragraph (1)'' after ''payments'' in heading.

Subsec. (b)(3)(B)(i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(2)(B)], inserted ''in lieu of basic support payments under paragraph (1)'' before ''by multiplying'' in introductory provisions and struck out ''(not including amounts received under subsection (f) of this section)'' after ''under this paragraph'' in subcl. (II).

Subsec. (b)(3)(B)(iv). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(2)(C)], added cl. (iv).

Subsec. (b)(3)(C). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(4)], added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(b)(3), (5)], redesignated subpar. (C) as (D) and substituted ''computations made under subparagraphs (B) and (C)'' for ''computation made under subparagraph (B)''.

Subsec. (b)(4). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(a)(1)], redesignated par. (3) as (4).

Subsec. (b)(4)(A). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(2)(B)(i)], substituted ''subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection'' for ''paragraphs (1)(B), (1)(C), and (2) of this subsection''.

Subsec. (b)(4)(B). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(2)(B)(ii)], in introductory provisions, inserted ''or subparagraph (D) or (E) of paragraph (2), as the case may be,'' after ''paragraph (1)(C)'' and substituted ''subparagraph (B) or (C) of paragraph (3), as the case may be,'' for ''paragraph (2)(B)''.

Subsec. (b)(5). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1807], added par. (5).

Subsec. (c)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(3)], substituted ''subsections (b)(1)(D), (b)(2), and paragraph (2)'' for ''paragraph (2) and subsection (f) of this section''.

Subsec. (e). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(a)(3)], amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) required the Secretary to pay local education agencies under subsec. (b) of this section certain minimum amounts for fiscal years 1995 to 1999.

Subsec. (f). Pub. L. 106–398, § 1 [[div. A], title XVIII, §§ 1806(c)(4), 1808(b)(1)], redesignated subsec. (h) as (f) and struck out heading and text of former subsec. (f) which required the Secretary to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

Subsec. (g). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1808(a), (b)(1)], redesignated subsec. (i) as (g) and struck out heading and text of former subsec. (g) which related to additional payments for local educational agencies with high concentrations of children with severe disabilities.

Subsec. (h). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1808(b)(1)], redesignated subsec. (h) as (f).

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1806(c)(5)], substituted ''section 386 of the National Defense Authorization Act for Fiscal Year 1993'' for ''section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994)''.

Subsec. (i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1808(b)(1)], redesignated subsec. (i) as (g).

1997—Subsec. (f)(2)(A)(ii)(I). Pub. L. 105–78, which directed the amendment of section 8003(f)(2)(ii)(I) of the

Elementary and Secondary Education Act of 1965 by substituting ''25 percent of the total student enrollment of such agency. For purposes of this subclause, all students described in subsection (a)(1) of this section are used to determine eligibility, regardless of whether or not a local educational agency receives funds for these children from subsection (b) of this section;'' for ''35 percent'' and all that follows through the semicolon, was executed by making the substitution for ''35 percent of the total student enrollment of such agency;'' in subsection (f)(2)(A)(ii)(I) of this section, to reflect the probable intent of Congress.

Subsec. (f)(4). Pub. L. 105–18 struck out hyphen after ''Secretary'' in introductory provisions, redesignated subpar. (A) as entire par. (4), inserted ''expenditure,'' after ''revenue,'', substituted period for semicolon after ''assistance under this subsection'', and struck out subpar. (B) which read as follows: ''shall derive the per pupil expenditure amount for the fiscal year for which the local educational agency is applying for assistance under this subsection for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per pupil expenditure data for such second year.''

1996—Subsec. (a)(3). Pub. L. 104–201 substituted ''1,000 or such number equals or exceeds 10 percent'' for ''2,000 and such number equals or exceeds 15 percent''.

Subsec. (a)(4). Pub. L. 104–195, § 3(a), added par. (4).

Subsec. (b)(3). Pub. L. 104–195, § 4(a), added par. (3).

Subsec. (f)(2)(A). Pub. L. 104–106, § 1074(f)(1)(A), substituted ''if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency'' for ''only if such agency'' in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 104–106, § 1074(f)(1)(B), added subpar. (D).

Subsec. (f)(3)(A). Pub. L. 104–106, § 1074(f)(2)(A)(i), inserted ''(other than any amount received under paragraph (2)(B))'' after ''subsection'' in introductory provisions.

Subsec. (f)(3)(A)(i). Pub. L. 104–208, § 101(e) [title III, § 307(a)(1), (5)], substituted in introductory provisions, ''The Secretary, in conjunction with the local educational agency, shall first determine each of the following:'' for ''The Secretary shall first determine the greater of—'' and inserted concluding provisions.

Subsec. (f)(3)(A)(i)(I). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2), (3)], substituted ''The average'' for ''the average'' before ''of the State'' and substituted period for semicolon at end.

Pub. L. 104–106, § 1074(f)(2)(A)(ii), struck out ''or the average per-pupil expenditure of all the States'' after ''is located''.

Subsec. (f)(3)(A)(i)(II). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2)], substituted ''The average'' for ''the average''.

Pub. L. 104–208, § 101(e) [title III, § 307(a)(4)], which directed substitution of period for ''; or'', was executed by making substitution for ''; or'' to reflect the probable intent of Congress.

Subsec. (f)(3)(A)(i)(III). Pub. L. 104–208, § 101(e) [title III, § 307(a)(2)], substituted ''The average'' for ''the average''.

Subsec. (f)(3)(A)(ii). Pub. L. 104–106, § 1074(f)(2)(A)(iii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.''

Subsec. (f)(3)(A)(iii). Pub. L. 104–195, § 5(b)(1), inserted '', except as provided in subparagraph (C),'' after ''but'' in introductory provisions.

Pub. L. 104–106, § 1074(f)(2)(A)(iv), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1) of this section.''

Subsec. (f)(3)(B). Pub. L. 104–106, § 1074(f)(2)(B), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.''

Subsec. (f)(3)(C). Pub. L. 104–195, § 5(b)(2), added subpar. (C).

Subsec. (f)(4). Pub. L. 104–195, § 5(a), substituted ''Data'' for ''Current year data'' in heading, amended subpar. (A) generally, substituting present provisions for provisions which read ''shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and'', and in subpar. (B) substituted ''the fiscal year for which the local educational agency is applying for assistance under this subsection'' for ''such year''.

Pub. L. 104–106, § 1074(g), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The Secretary shall, for purposes of providing assistance under this subsection, use—

''(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

''(B) the most recent data available which is adjusted to such fiscal year.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–375, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply with respect to payments to a local educational agency for fiscal years beginning before, on, or after the date of the enactment of this Act [Oct. 30, 2000].''

EFFECTIVE DATE OF 1997 AMENDMENTS

Title III of Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1497, provided in part that: ''The amendment made by this proviso [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1996''.

Section 60005(b) of Pub. L. 105–18 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1997.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 101(e) [title III, § 307(b)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995.''

Section 3(b) of Pub. L. 104–195 provided that: ''Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(a)(4)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.''

Section 4(b) of Pub. L. 104–195 provided that: ''Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(b)(3)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.''

Section 5(c) of Pub. L. 104–195 provided that: ''The amendments made by subsections (a) and (b) [amending

this section] shall apply with respect to fiscal years after fiscal year 1996.''

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 102–484, div. A, title III, § 386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103–160, div. A, title III, § 373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103–382, title III, § 391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title X, § 1074(c)–(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105–85, div. A, title III, § 381(e), Nov. 18, 1997, 111 Stat. 1709; Pub. L. 106–65, div. A, title III, § 351(e), Oct. 5, 1999, 113 Stat. 572, provided that:

''(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

''(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in subsection (c) if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

''(c) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under subsection (b) for a fiscal year if—

''(1) at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency during the preceding school year were military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1));

''(2) there has been a significant increase, as determined by the Secretary of Defense, in the number of military dependent students in average daily attendance in the schools of that agency as a result of a relocation of Armed Forces personnel or civilian employees of the Department of Defense or as a result of a realignment of one or more military installations; or

''(3) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

''(A) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

''(B) satisfied the requirement in paragraph (1) or (2).

''(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall, in consultation with the Secretary of Education, make payments to local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall reduction of not less than 20 percent in the number of military dependent students as a result of the closure or realignment of military installations.

''(e) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, 1995, and 1996, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

''(2) Each report shall contain the following:

''(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

''(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

''(C) The amounts paid to the local educational agencies during that year under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; [former] 20 U.S.C. 236 et seq.), title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

''(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

''(i) the installations to be closed or realigned;

''(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

''(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency.

''(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301 [106 Stat. 2360]—

''(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

''(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d).

''(g) LIMITATION ON TRANSFER AND OBLIGATION OF FUNDS.—(1) The amount made available pursuant to subsection (f)(2) for adjustment assistance related to base closures and realignments under subsection (d) may be obligated for such adjustment assistance only if expenditures for that adjustment assistance for fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 665(a)(2)]) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

''(2) Not later than the third day after the date of the enactment of this Act [Oct. 23, 1992], the Director of the Office of Management and Budget shall make a determination as to the classification by discretionary spending limit category for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title note set out under section 900 of Title 2, The Congress] of the amount appropriated for adjustment assistance related to base closures and realignments under subsection (d). If the Director determines that the amount shall not classify against the defense category (as described in paragraph (1)), then the President shall submit to Congress a report stating that the Director has made such a determination and the amount that will not classify against the defense category and containing an explanation for the determination.

''(3) The amount listed in the report under paragraph (2) may be transferred only to the programs under title III [see Tables for classification] other than the program under subsection (d) pursuant to amounts specified in appropriation Acts. Any such transfer shall be

taken into account for purposes of calculating all reports under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 904].

''(h) DEFINITIONS.—In this section:

''(1) The term 'local educational agency' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

''(2) The term 'military dependent student' means a student that is—

''(A) a dependent child of a member of the Armed Forces; or

''(B) a dependent child of a civilian employee of the Department of Defense.

''(3) The term 'State' means each of the 50 States and the District of Columbia.''

[Section 373(c) of Pub. L. 103–160 provided that: ''The amendments made by subsections (a) and (b) [amending section 386 of Pub. L. 102–484 set out above] shall take effect as of October 23, 1992, as if section 386 of Public Law 102–484 had been enacted as amended by such subsections.'']

NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101–189, set out as a note under section 2687 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228, 7702, 7703a, 7704, 7705, 7707, 7709, 7710, 7714 of this title.

§ 7703a. Impact aid for children with severe disabilities

(a) Payments

Subject to subsection (f) of this section, the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 7703(a)(1) of this title that serves two or more such children with severe disabilities, for costs incurred in providing a free appropriate public education to each such child.

(b) Payment amount

The amount of the payment under subsection (a) of this section to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

(1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less

(2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

(c) Exclusions

No payment shall be made under subsection (a) of this section on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

(d) Ratable reduction

If the amount available for a fiscal year for payments under subsection (a) of this section is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

(e) Report

Each local educational agency desiring a payment under subsection (a) of this section shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

(f) Payments subject to appropriation

Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

(g) Local educational agency defined

In this section, the term ''local educational agency'' has the meaning given that term in section 7713(9) of this title.

(Pub. L. 106–398, § 1 [[div. A], title III, § 363], Oct. 30, 2000, 114 Stat. 1654, 1654A–77.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year

2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

§ 7704. Policies and procedures relating to children residing on Indian lands

(a) In general

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) Records

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a) of this section.

(c) Waiver

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall not be required to comply with the requirements of subsections (a) and (b) of this section for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) Technical assistance and enforcement

The Secretary shall—

(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) Complaints

(1) In general

(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(ii) designate a hearing examiner to conduct the hearing; and

(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) Hearing

The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) Evidence; recommendations; cost

The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) Findings and recommendations

Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) Written determination

Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) Copies provided

Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) Consolidation

In all actions under this subsection, the Secretary shall have discretion to consolidate

complaints involving the same tribe or local educational agency.

(8) Withholding

If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 7703 of this title until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

(9) Rejection of determination

If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) of this section was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 7703 of this title. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

(f) Construction

This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

(Pub. L. 89–10, title VIII, § 8004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3759.)

REFERENCES IN TEXT

Section 1101(d) of the Education Amendments of 1978, referred to in subsec. (e)(9), is section 1101(d) of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2315, set out below.

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Section 1101(d) of Pub. L. 95–561 directed Secretary of Health, Education, and Welfare, in cooperation with Commissioner of Education, within one year of Nov. 1, 1978, to promulgate special regulations which would provide that where a local educational agency had not undertaken the remedial action required by the Commissioner under 20 U.S.C. 240(b)(3)(C)(vi), the affected tribes could elect for the Bureau of Indian Affairs to provide educational services provided by the local educational agency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7705 of this title.

§ 7705. Application for payments under sections 7702 and 7703 of this title

(a) In general

A local educational agency desiring to receive a payment under section 7702 or 7703 of this title shall—

(1) submit an application for such payment to the Secretary; and

(2) provide a copy of such application to the State educational agency.

(b) Contents

Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

(2) where applicable, an assurance that such agency is in compliance with section 7704 of this title (relating to children residing on Indian lands).

(c) Deadline for submission

The Secretary shall establish deadlines for the submission of applications under this section.

(d) Approval

(1) In general

The Secretary shall approve an application submitted under this section that—

(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c) of this section; and

(B) otherwise meets the requirements of this subchapter.

(2) Reduction in payment

The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) of this section, or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be, that otherwise meets the requirements of this subchapter, except that, notwithstanding section 7703(e) of this title, the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

(3) Late applications

(A) Notice

The Secretary shall, as soon as practicable after the deadline established under subsection (c) of this section, provide to each local educational agency that applied for a payment under section 7702 or 7703 of this title for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

(B) Acceptance and approval of late applications

The Secretary shall not accept or approve any application of a local educational agen-

cy that is filed more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to subparagraph (A).

(4) State application authority

Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

(Pub. L. 89–10, title VIII, § 8005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3761; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809], Oct. 30, 2000, 114 Stat. 1654, 1654A–382.)

REFERENCES IN TEXT

Section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (d)(4), means section 3 of act Sept. 30, 1950, ch. 1124, which was classified to section 238 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

AMENDMENTS

2000—Subsec. (d)(2). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809(1)], inserted ‘‘, or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be,’’ after ‘‘subsection (c) of this section’’.

Subsec. (d)(3). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809(2)], amended heading and text generally. Prior to amendment, text read as follows: ‘‘The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c) of this section.’’

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7702 of this title.

§ 7706. Repealed. Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1810], Oct. 30, 2000, 114 Stat. 1654, 1654A–383

Section, Pub. L. 89–10, title VIII, § 8006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3762, related to payments for sudden and substantial increases in attendance of military dependents.

§ 7707. Construction

(a) Construction payments authorized

(1) In general

From 40 percent of the amount appropriated for each fiscal year under section 7714(e) of this title, the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section 7703(b) of this title for that fiscal year.

(2) Additional requirements

A local educational agency that receives a basic support payment under section 7703(b)(1) of this title shall also meet at least one of the following requirements:

(A) The number of children determined under section 7703(a)(1)(C) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(B) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(3) Amount of payments

(A) Local educational agencies impacted by military dependent children

The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

(i)(II) 20 percent of the amount appropriated under section 7714(e) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title), including the number of weighted student units of such children attending a school facility described in section 7708(a) of this title if the Secretary does not provide assistance for the school facility under that section for the prior fiscal year; multiplied by

(ii) the total number of such weighted student units for the agency.

(B) Local educational agencies impacted by children who reside on Indian lands

The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

(i)(I) 20 percent of the amount appropriated under section 7714(e) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in section 7703(a)(1)(C) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title); multiplied by

(ii) the total number of such weighted student units for the agency.

(4) Use of funds

Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section 7713(3) of this title.

(b) School facility modernization grants authorized

(1) In general

From 60 percent of the amount appropriated for each fiscal year under section 7714(e) of

this title, the Secretary shall award grants in accordance with this subsection to eligible local educational agencies to enable the local educational agencies to carry out modernization of school facilities.

(2) Eligibility requirements

A local educational agency is eligible to receive funds under this subsection only if—

(A) such agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, such agency's fiscal agent) has no capacity to issue bonds or is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures, except that a local educational agency that is eligible to receive funds under section 7703(b)(2) of this title shall be deemed to meet the requirements of this subparagraph; and

(B)(i) such agency received assistance under section 7702(a) of this title for the fiscal year and has an assessed value of taxable property per student in the school district that is less than the average of the assessed value of taxable property per student in the State in which the local educational agency is located; or

(ii) such agency received assistance under subsection (a) of this section for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

(3) Award criteria

In awarding grants under this subsection the Secretary shall consider one or more of the following factors:

(A) The extent to which the local educational agency lacks the fiscal capacity to undertake the modernization project without Federal assistance.

(B) The extent to which property in the local educational agency is nontaxable due to the presence of the Federal Government.

(C) The extent to which the local educational agency serves high numbers or percentages of children described in subparagraphs (A), (B), (C), and (D) of section 7703(a)(1) of this title.

(D) The need for modernization to meet—

(i) the threat that the condition of the school facility poses to the health, safety, and well-being of students;

(ii) overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

(iii) facility needs resulting from actions of the Federal Government.

(E) The age of the school facility to be modernized.

(4) Other award provisions

(A) Federal share

The Federal funds provided under this subsection to a local educational agency described in subparagraph (C) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection. A local educational agency may use in-kind contributions to meet the matching requirement of the preceding sentence.

(B) Maximum grant

A local educational agency described in subparagraph (C) may not receive a grant under this subsection in an amount that exceeds $3,000,000 during any 5-year period.

(C) Local educational agency described

A local educational agency described in this subparagraph is a local educational agency that has the authority to issue bonds but is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures.

(5) Applications

A local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain—

(A) documentation certifying such agency's lack of bonding capacity;

(B) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 7703(a)(1) of this title in average daily attendance in each school facility;

(C) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located;

(D) a description of any school facility deficiency that poses a health or safety hazard to the occupants of the school facility and a description of how that deficiency will be repaired;

(E) a description of the modernization to be supported with funds provided under this subsection;

(F) a cost estimate of the proposed modernization; and

(G) such other information and assurances as the Secretary may reasonably require.

(6) Emergency grants

(A) Applications

Each local educational agency described in paragraph (2)(B)(ii) that desires a grant under this subsection shall include in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety deficiency exists.

(B) Priority

If the Secretary receives more than one application from local educational agencies described in paragraph (2)(B)(ii) for grants under this subsection for any fiscal year, the Secretary shall give priority to local educational agencies based on the severity of the emergency, as determined by the Secretary, and when the application was received.

(C) Allocation; reporting requirement

(i) Allocation

In awarding grants under this subsection to local educational agencies described in paragraph (2)(B)(ii), the Secretary shall consider all applications received from local educational agencies that meet the requirement of subsection (a)(2)(A) of this section and local educational agencies that meet the requirement of subsection (a)(2)(B) of this section.

(ii) Reporting requirement

(I) In general

Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

(II) Definition

In this clause, the term ''appropriate congressional committees'' means the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives and the Committee on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate.

(D) Consideration for following year

A local educational agency described in paragraph (2)(B)(ii) that applies for a grant under this subsection for any fiscal year and does not receive the grant shall have the application for the grant considered for the following fiscal year, subject to the priority described in subparagraph (B).

(7) Supplement not supplant

An eligible local educational agency shall use funds received under this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the modernization of school facilities used for educational purposes, and not to supplant such funds.

(Pub. L. 89–10, title VIII, § 8007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3763; amended Pub. L. 104–134, title I, § 101(d) [title III, § 306(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1811], Oct. 30, 2000, 114 Stat. 1654, 1654A–383.)

AMENDMENTS

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) authorizing payments to certain local educational agencies for construction.

1996—Subsec. (a)(2)(B). Pub. L. 104–134 struck out ''and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation'' before semicolon at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7714 of this title.

§ 7708. Facilities

(a) Current facilities

From the amount appropriated for any fiscal year under section 7714(f) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(b) Transfer of facilities

(1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950[1] (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950[1] (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

(2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–10, title VIII, § 8008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as added by Pub. L. 85–620, title I, § 101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7707, 7714 of this title; title 10 section 2008.

§ 7709. State consideration of payments in providing State aid

(a) General prohibition

Except as provided in subsection (b) of this section, a State may not—

[1] See References in Text note below.

(1) consider payments under this subchapter in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) State equalization plans

(1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under section 7703(a)(2)(B) of this title) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

(2) Computation

(A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

(B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

(3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

(c) Procedures for review of State equalization plans

(1) Written notice

(A) In general

Any State that wishes to consider payments described in subsection (b)(1) of this section in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

(B) Contents

Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

(2) Opportunity to present views

Before making a determination under subsection (b) of this section, the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

(3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b) of this section, the Secretary shall—

(A) certify the program and so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to any local educational agency adversely affected by such certification.

(4) Nonqualification procedures

If the Secretary determines that a program of State aid does not qualify under subsection (b) of this section, the Secretary shall—

(A) so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to the State, and to any local educational agency adversely affected by such determination.

(d) Treatment of State aid

(1) In general

If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this subchapter for any fiscal year may be taken into consideration by such State in determining the relative—

(A) financial resources available to local educational agencies in that State; and

(B) financial need of such agencies for the provision of free public education for chil-

dren served by such agency, except that a State may consider as local resources funds received under this subchapter only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

(2) Prohibition

A State may not take into consideration payments under this subchapter before such State's program of State aid has been certified by the Secretary under subsection (c)(3) of this section.

(e) Remedies for State violations

(1) In general

The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) of this section or for failure to carry out an assurance under subsection (b)(3)(B) of this section, and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

(2) Immunity

A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

(3) Relief

The court shall grant such relief as the court determines is appropriate.

(Pub. L. 89–10, title VIII, § 8009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764; amended Pub. L. 104–195, § 10, Sept. 16, 1996, 110 Stat. 2384; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1812], Oct. 30, 2000, 114 Stat. 1654, 1654A–386.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1812(1)], struck out ''or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)'' after ''under this subchapter'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1812(2)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under subparagraph (B) of section 7703(a)(2) of this title) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding October 20, 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.''

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1812(3)], struck out ''or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)'' after ''under this subchapter'' wherever appearing.

1996—Subsec. (b)(2)(A). Pub. L. 104–195 substituted ''more than 25 percent'' for ''more than—

''(i) 25 percent for fiscal year 1995, 1996, or 1997; and

''(ii) 20 percent for fiscal year 1998 or 1999''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7710 of this title.

§ 7710. Federal administration

(a) Payments in whole dollar amounts

The Secretary shall round any payments under this subchapter to the nearest whole dollar amount.

(b) Other agencies

Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this subchapter, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this subchapter.

(c) Special rules

(1) Certain children eligible under subparagraphs (A) and (G)(ii) of section 7703(a)(1)

(A) The Secretary shall treat as eligible under subparagraph (A) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3)[1] of this subsection.

(B) The Secretary shall treat as eligible under subparagraph (G) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3)[1] of this subsection.

(2) Requirements

A child meets the requirements of this paragraph if—

(A) such child resides—

(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 7709(b) of this title; and

(E) such agency received a payment for fiscal year 1999 under section 7703(b) of this

[1] So in original. Probably should be paragraph ''(2)''.

title on behalf of children described in paragraph (1).

(Pub. L. 89–10, title VIII, § 8010, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3767; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813(1), (2)], redesignated par. (2) as (1) and struck out heading and text of former par. (1). Text read as follows: ''Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding October 20, 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.''

Subsec. (c)(2). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813(2)], redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (c)(2)(D). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813(3)(A)], struck out ''section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) or'' after ''otherwise permitted under''.

Subsec. (c)(2)(E). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813(3)(B)], substituted ''1999'' for ''1994'', struck out ''(or such section's predecessor authority)'' after ''section 7703(b) of this title'', and substituted ''paragraph (1)'' for ''paragraph (2)''.

Subsec. (c)(3). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1813(2)], redesignated par. (3) as (2).

§ 7711. Administrative hearings and judicial review

(a) Administrative hearings

A local educational agency and a State that is adversely affected by any action of the Secretary under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5 if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter.

(b) Judicial review of secretarial action

(1) In general

A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) of this section may, within 30 working days (as determined by the local educational agency or State) after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28.

(2) Findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Review

The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89–10, title VIII, § 8011, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3768; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1814(a)(1), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

REFERENCES IN TEXT

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1814(a)(1)], inserted ''if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter'' before period at end.

Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1814(b)], substituted ''30 working days (as determined by the local educational agency or State)'' for ''60 days''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1814(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to an action of the Secretary under title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) initiated on or after the date of the enactment of this Act [Oct. 30, 2000].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7709 of this title.

§ 7712. Forgiveness of overpayments

Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this subchapter, or under this subchapter's predecessor authorities, if the Secretary determines that the overpayment was made as a result of an error made by—

(1) the Secretary; or

(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

(Pub. L. 89–10, title VIII, § 8012, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1815], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

AMENDMENTS

2000—Pub. L. 106–398 substituted ''under this subchapter's predecessor authorities'' for ''under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding October 20, 1994)'' in introductory provisions.

§ 7713. Definitions

For purposes of this subchapter:

(1) Armed Forces

The term ''Armed Forces'' means the Army, Navy, Air Force, and Marine Corps.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means—

(A) the aggregate current expenditures of all local educational agencies in the State; divided by

(B) the total number of children in average daily attendance for whom such agencies provided free public education.

(3) Construction

The term ''construction'' means—

(A) the preparation of drawings and specifications for school facilities;

(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

(C) inspecting and supervising the construction of school facilities; and

(D) debt service for such activities.

(4) Current expenditures

The term ''current expenditures'' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of subchapter I of this chapter and subchapter VI of this chapter. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

(5) Federal property

(A) In general

Except as provided in subparagraphs (B) through (F), the term ''Federal property'' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

(i) owned by the United States or leased by the United States from another entity;

(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

(III) conveyed at any time under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual, Native group, or village or regional corporation;

(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.];

(II) used to provide housing for homeless children at closed military installations pursuant to section 11411 of title 42; or

(III) used for affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]; or

(iv) owned by a foreign government or by an international organization.

(B) Schools providing flight training to members of Air Force

The term ''Federal property'' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

(C) Non-Federal easements, leases, licenses, permits, improvements, and certain other real property

The term ''Federal property'' includes, whether or not subject to taxation by a State or a political subdivision of a State—

(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

(ii) any improvement on Federal property as otherwise described in this paragraph; and

(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

(D) Certain Postal Service property and pipelines and utility lines

Notwithstanding any other provision of this paragraph, the term ''Federal property'' does not include—

(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

(ii) pipelines and utility lines.

(E) Property with respect to which State or local tax revenues may not be expended, allocated, or available for free public education

Notwithstanding any other provision of this paragraph, ''Federal property'' does not include any property on which children reside that is otherwise described in this paragraph if—

(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

(ii) no tax revenues of the State are allocated or available for the free public education of such children.

(F) Property located in the State of Oklahoma owned by Indian housing authority for low-income housing

The term ''Federal property'' includes any real property located in the State of Oklahoma that—

(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under or authorized by the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]); and

(ii) at any time—

(I) was designated by treaty as tribal land; or

(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(6) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

(i) includes preschool education; and

(ii) does not include any education provided beyond grade 12.

(7) Indian lands

The term ''Indian lands'' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

(8) Local contribution percentage

(A) In general

The term ''local contribution percentage'' means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

(B) Hawaii and District of Columbia

Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for the 50 States and the District of Columbia.

(9) Local educational agency

(A) In general

Except as provided in subparagraph (B), the term ''local educational agency''—

(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

(B) Exception

The term ''local educational agency'' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this subchapter or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) or increasing the amount of such assistance; or

(ii) is not constituted or reconstituted for legitimate educational purposes.

(10) Low-rent housing

The term ''low-rent housing'' means housing located on property that is described in paragraph (5)(A)(iii).

(11) Modernization

The term ''modernization'' means repair, renovation, alteration, or construction, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing school facility, but only if such replacement is less expensive and more cost-effective than repair, renovation, or alteration of the school facility.

(12) Revenue derived from local sources

The term ''revenue derived from local sources'' means—

(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

(13) School facilities

The term ''school facilities'' includes—

(A) classrooms and related facilities; and

(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

(Pub. L. 89–10, title VIII, § 8013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5)(A)(ii)(III), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The United States Housing Act of 1937, referred to in par. (5)(A)(iii)(I), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in par. (5)(A)(iii)(III), (F)(i), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§ 4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in pars. (5)(F)(ii)(II) and (9)(B)(i), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. Section 403 of the Act was classified to section 244 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Par. (5)(A)(iii)(II). Pub. L. 106–400 made technical amendment to reference in original act which appears in text as reference to section 11411 of title 42.

Par. (5)(A)(iii)(III). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(1)(A)], added subcl. (III).

Par. (5)(F)(i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(1)(B)], substituted ''or authorized by the Native American Housing Assistance and Self-Determination Act of 1996'' for ''the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937''.

Par. (8)(B). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(2)], substituted ''the 50 States and the District of Columbia'' for ''all States''.

Pars. (11) to (13). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(3), (4)], added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7703a of this title; title 10 section 2008.

§ 7713a. School facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments

In order to facilitate the providing of educational opportunities for children of Government employees and other residents in Indian reservations, the national parks and national monuments the Secretary of the Interior is hereby authorized in his discretion to make available for elementary school purposes therein, without charge, space in Government-owned buildings, when such space may be available for such purposes without detriment to the official business of such Indian reservations, national parks and national monuments.

(July 16, 1940, ch. 629, 54 Stat. 761.)

CODIFICATION

Section was not enacted as part of the Elementary and Secondary Education Act of 1965, which comprises this chapter.

Section was formerly classified to section 244a of this title. Prior thereto, section was classified to section 76a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1228, 7707, 8512 of this title.

§ 7714. Authorization of appropriations

(a) Payments for Federal acquisition of real property

For the purpose of making payments under section 7702 of this title, there are authorized to be appropriated $32,000,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(b) Basic payments; payments for heavily impacted local educational agencies

For the purpose of making payments under section 7703(b) of this title, there are authorized to be appropriated $809,400,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(c) Payments for children with disabilities

For the purpose of making payments under section 7703(d) of this title, there are authorized to be appropriated $50,000,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(d) Repealed. Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–388

(e) Construction

For the purpose of carrying out section 7707 of this title, there are authorized to be appropriated $10,052,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(f) Facilities maintenance

For the purpose of carrying out section 7708 of this title, there are authorized to be appropriated $5,000,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(g) Additional assistance for certain local educational agencies impacted by Federal property acquisition

For the purpose of carrying out section 7702(j) of this title there are authorized to be appropriated $1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.

(Pub. L. 89–10, title VIII, § 8014, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3772; amended Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817], Oct. 30, 2000, 114 Stat. 1654, 1654A–388.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(a)], substituted ''$32,000,000 for fiscal year 2000'' for ''$16,750,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(b)], substituted ''section 7703(b)'' for ''subsections (b) and (f) of section 7703'', ''$809,400,000 for fiscal year 2000'' for ''$775,000,000 for fiscal year 1995'', and ''three'' for ''four'' and struck out '', of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 7703(f) of this title'' before period at end.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(c)], substituted ''$50,000,000 for fiscal year 2000'' for ''$45,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(d)], struck out heading and text of subsec. (d). Text read as follows: ''For the purpose of making payments under section 7706 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.''

Subsec. (e). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(e)], substituted ''$10,052,000 for fiscal year 2000'' for ''$25,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (f). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(f)], substituted ''$5,000,000 for fiscal year 2000'' for ''$2,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (g). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(g)], amended heading and substituted ''$1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years'' for ''such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year'' in text.

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7702, 7703, 7707, 7708 of this title.

SUBCHAPTER IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 25 section 458e.

PART A—INDIAN EDUCATION

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 28 of Title 25, Indians, prior to repeal by Pub. L. 103–382, § 367.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3423c, 8825 of this title.

§ 7801. Findings

The Congress finds that—

(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

(4) the dropout rate for Indian students is unacceptably high, for example, 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

(Pub. L. 89–10, title IX, § 9101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3773.)

REFERENCES IN TEXT

The date of enactment of the initial Indian Education Act in 1972, referred to in par. (2), means the date of enactment of title IV of Pub. L. 92–318, which was approved June 23, 1972.

EX. ORD. NO. 13096. AMERICAN INDIAN AND ALASKA NATIVE EDUCATION

Ex. Ord. No. 13096, Aug. 6, 1998, 63 F.R. 42681, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in affirmation of the unique political and legal relationship of the Federal Government with tribal governments, and in recognition of the unique educational and culturally related academic needs of American Indian and Alaska Native students, it is hereby ordered as follows:

SECTION 1. *Goals*. The Federal Government has a special, historic responsibility for the education of American Indian and Alaska Native students. Improving educational achievement and academic progress for American Indian and Alaska Native students is vital to the national goal of preparing every student for responsible citizenship, continued learning, and productive employment. The Federal Government is committed to improving the academic performance and reducing the dropout rate of American Indian and Alaska Native students. To help fulfill this commitment in a manner consistent with tribal traditions and cultures, Federal

agencies need to focus special attention on six goals: (1) improving reading and mathematics; (2) increasing high school completion and postsecondary attendance rates; (3) reducing the influence of long-standing factors that impede educational performance, such as poverty and substance abuse; (4) creating strong, safe, and drug-free school environments; (5) improving science education; and (6) expanding the use of educational technology.

SEC. 2. *Strategy*. In order to meet the six goals of this order, a comprehensive Federal response is needed to address the fragmentation of government services available to American Indian and Alaska Native students and the complexity of intergovernmental relationships affecting the education of those students. The purpose of the Federal activities described in this order is to develop a long-term, comprehensive Federal Indian education policy that will accomplish those goals.

(a) *Interagency Task Force*. There is established an Interagency Task Force on American Indian and Alaska Native Education (Task Force) to oversee the planning and implementation of this order. The Task Force shall confer with the National Advisory Council on Indian Education (NACIE) in carrying out activities under this order. The Task Force shall consult with representatives of American Indian and Alaska Native tribes and organizations, including the National Indian Education Association (NIEA) and the National Congress of American Indians (NCAI), to gather advice on implementation of the activities called for in this order.

(b) *Composition of the Task Force*. (1) The membership of the Task Force shall include representatives of the Departments of the Treasury, Defense, Justice, the Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education, as well as the Environmental Protection Agency, the Corporation for National and Community Service, and the National Science Foundation. With the agreement of the Secretaries of Education and the Interior, other agencies may participate in the activities of the Task Force.

(2) Within 30 days of the date of this order, the head of each participating agency shall designate a senior official who is responsible for management or program administration to serve as a member of the Task Force. The official shall report directly to the agency head on the agency's activities under this order.

(3) The Assistant Secretary for Elementary and Secondary Education of the Department of Education and the Assistant Secretary for Indian Affairs of the Department of the Interior shall co-chair the Task Force.

(c) *Interagency plan*. The Task Force shall, within 90 days of the date of this order, develop a Federal interagency plan with recommendations identifying initiatives, strategies, and ideas for future interagency action supportive of the goals of this order.

(d) *Agency participation*. To the extent consistent with law and agency priorities, each participating agency shall adopt and implement strategies to maximize the availability of the agency's education-related programs, activities, resources, information, and technical assistance to American Indian and Alaska Native students. In keeping with the spirit of the Executive Memorandum of April 29, 1994 [25 U.S.C. 450 note], on Government-to-Government Relations with Native American Tribal Governments and Executive Order 13084 of May 14, 1998 [former 25 U.S.C. 450 note], each participating agency shall consult with tribal governments on their education-related needs and priorities, and on how the agency can better accomplish the goals of this order. Within 6 months, each participating agency shall report to the Task Force regarding the strategies it has developed to ensure such consultation.

(e) *Interagency resource guide*. The Task Force shall identify, within participating Federal agencies, all education-related programs and resources that support the goals of this order. Within 12 months, the Task Force, in conjunction with the Department of Education, shall develop, publish, and widely distribute a guide that describes those programs and resources and how American Indians and Alaska Natives can benefit from them.

(f) *Research*. The Secretary of Education, through the Office of Educational Research and Improvement and the Office of Indian Education, and in consultation with NACIE and participating agencies, shall develop and implement a comprehensive Federal research agenda to:

(1) establish baseline data on academic achievement and retention of American Indian and Alaska Native students in order to monitor improvements;

(2) evaluate promising practices used with those students; and

(3) evaluate the role of native language and culture in the development of educational strategies. Within 1 year, the Secretary of Education shall submit the research agenda, including proposed timelines, to the Task Force.

(g) *Comprehensive Federal Indian education policy*.

(1) The Task Force shall, within 2 years of the date of this order, develop a comprehensive Federal Indian education policy to support the accomplishment of the goals of this order. The policy shall be designed to:

(A) improve Federal interagency cooperation;

(B) promote intergovernmental collaboration; and

(C) assist tribal governments in meeting the unique educational needs of their children, including the need to preserve, revitalize, and use native languages and cultural traditions.

(2) In developing the policy, the Task Force shall consider ideas in the Comprehensive Federal Indian Education Policy Statement proposal developed by the NIEA and the NCAI.

(3) The Task Force shall develop recommendations to implement the policy, including ideas for future interagency action.

(4) As appropriate, participating agencies may develop memoranda of agreement with one another to enable and enhance the ability of tribes and schools to provide, and to coordinate the delivery of, Federal, tribal, State, and local resources and services, including social and health-related services, to meet the educational needs of American Indian and Alaska Native students.

(h) *Reports*. The Task Force co-chairs shall submit the comprehensive Federal Indian education policy, and report annually on the agencies' activities, accomplishments, and progress toward meeting the goals of this order, to the Director of the Office of Management and Budget.

SEC. 3. *Regional partnership forums*. The Departments of Education and the Interior, in collaboration with the Task Force and Federal, tribal, State, and local government representatives, shall jointly convene, within 18 months, a series of regional forums to identify promising practices and approaches on how to share information, provide assistance to schools, develop partnerships, and coordinate intergovernmental strategies supportive of accomplishing the goals of this order. The Departments of Education and the Interior shall submit a report on the forums to the Task Force, which may include recommendations relating to intergovernmental relations.

SEC. 4. *School pilot sites*. The Departments of Education and the Interior shall identify a reasonable number of schools funded by the Bureau of Indian Affairs (BIA) and public schools that can serve as a model for schools with American Indian and Alaska Native students, and provide them with comprehensive technical assistance in support of the goals of this order. A special team of technical assistance providers, including Federal staff, shall provide assistance to these schools. Special attention shall be given, where appropriate, to assistance in implementing comprehensive school reform demonstration programs that meet the criteria for those programs established by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998 (Public Law 105–78) [see Tables for classification], and to providing comprehensive service delivery that connects and uses

diverse Federal agency resources. The team shall disseminate effective and promising practices of the school pilot sites to other local educational agencies. The team shall report to the Task Force on its accomplishments and its recommendations for improving technical support to local educational agencies and schools funded by the BIA.

SEC. 5. *Administration*. The Department of Education shall provide appropriate administrative services and staff support to the Task Force. With the consent of the Department of Education, other participating agencies may provide administrative support to the Task Force, consistent with their statutory authority, and may detail agency employees to the Department of Education, to the extent permitted by law.

SEC. 6. *Termination*. The Task Force established under section 2 of this order shall terminate not later than 5 years from the date of this order.

SEC. 7. *General provisions*. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This order is not intended to preclude, supersede, replace, or otherwise dilute any other Executive order relating to American Indian and Alaska Native education.

WILLIAM J. CLINTON.

§ 7802. Purpose

(a) Purpose

It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

(b) Programs

This part carries out the purpose described in subsection (a) of this section by authorizing programs of direct assistance for—

(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

(2) the education of Indian children and adults;

(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

(4) research, evaluation, data collection, and technical assistance.

(Pub. L. 89–10, title IX, § 9102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774.)

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7882 of this title.

§ 7811. Purpose

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

(1) are based on challenging State content standards and State student performance standards that are used for all students; and

(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

(Pub. L. 89–10, title IX, § 9111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7815 of this title.

§ 7812. Grants to local educational agencies

(a) In general

(1) Enrollment requirements

A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7816 of this title and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

(A) was at least 10; or

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) Exclusion

The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(b) Indian tribes

(1) In general

If a local educational agency that is eligible for a grant under this subpart does not establish a parent committee under section 7814(c)(4) of this title for such grant, an Indian tribe that represents no less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) Special rule

The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart.

(Pub. L. 89–10, title IX, § 9112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774; amended Pub. L. 104–5, § 1, Mar. 23, 1995, 109 Stat. 72.)

AMENDMENTS

1995—Subsec. (a)(1)(A). Pub. L. 104–5 substituted ''or'' for ''and'' at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7813 of this title.

§ 7813. Amount of grants

(a) Amount of grant awards

(1) In general

Except as provided in subsection (b) of this section and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this subpart an amount equal to the product of—

(A) the number of Indian children who are eligible under section 7816 of this title and served by such agency; and

(B) the greater of—

(i) the average per-pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per-pupil expenditure in the United States.

(2) Reduction

The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e) of this section.

(b) Minimum grant

(1) In general

Notwithstanding subsection (e) of this section, a local educational agency or an Indian tribe (as authorized under section 7812(b) of this title) that is eligible for a grant under section 7812 of this title, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d) of this section, that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

(2) Consortia

Local educational agencies may form a consortium for the purpose of obtaining grants under this chapter.

(3) Increase

The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure quality programs.

(c) "Average per-pupil expenditure of a State" defined

For the purpose of this section, the term ''average per-pupil expenditure of a State'' means an amount equal to—

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(d) Schools operated or supported by Bureau of Indian Affairs

In addition to the grants awarded under subsection (a) of this section, and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(1) the total number of Indian children enrolled in schools that are operated by—

(A) the Bureau of Indian Affairs; or

(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) [25 U.S.C. 2501 et seq.]; and

(2) the greater of—

(A) the average per-pupil expenditure of the State in which the school is located; or

(B) 80 percent of the average per-pupil expenditure in the United States.

(e) Ratable reductions

If the sums appropriated for any fiscal year under section 7882(a) of this title are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) of this section and for the Secretary of the Interior under subsection (d) of this section, each of those amounts shall be ratably reduced.

(Pub. L. 89–10, title IX, § 9113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3775.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(1)(B), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (d)(1)(B), is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7816, 7817 of this title.

§ 7814. Applications

(a) Application required

Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Comprehensive program required

Each application submitted under subsection (a) of this section shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is consistent with, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III[1] of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 6311 and 6312 of this title; and

(B) includes academic content and student performance goals for such children, and

[1] See References in Text note below.

benchmarks for attaining such goals, that are based on the challenging State standards adopted under subchapter I of this chapter for all children;

(3) explains how Federal, State, and local programs, especially under subchapter I of this chapter, will meet the needs of such students;

(4) demonstrates how funds made available under this subpart will be used for activities described in section 7815 of this title;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

(6) describes how the local educational agency—

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to—

(i) the committee of parents described in subsection (c)(4) of this section; and

(ii) the community served by the local educational agency; and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

(c) Assurances

Each application submitted under subsection (a) of this section shall include assurances that—

(1) the local educational agency will use funds received under this subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart; and

(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

(3) the program for which assistance is sought—

(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

(4) the local educational agency developed the program with the participation and written approval of a committee—

(A) that is composed of, and selected by—

(i) parents of Indian children in the local educational agency's schools and teachers; and

(ii) if appropriate, Indian students attending secondary schools;

(B) the membership of which is at least more than one-half parents of Indian children;

(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

(D) with respect to an application describing a schoolwide program in accordance with section 7815(c) of this title, has—

(i) reviewed in a timely fashion the program; and

(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

(Pub. L. 89–10, title IX, § 9114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3776.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(2)(A), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7812, 7815 of this title; title 25 section 456.

§ 7815. Authorized services and activities

(a) General requirements

Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7811 of this title, for services and activities that—

(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the applica-

tion of the local educational agency submitted to the Secretary under section 7814(b) of this title;

(2) are designed with special regard for the language and cultural needs of the Indian students; and

(3) supplement and enrich the regular school program of such agency.

(b) Particular activities

The services and activities referred to in subsection (a) of this section may include—

(1) culturally related activities that support the program described in the application submitted by the local educational agency;

(2) early childhood and family programs that emphasize school readiness;

(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.] and the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], including programs for tech-prep, mentoring, and apprenticeship;

(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 7811 of this title.

(c) Schoolwide programs

Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 6314 of this title if—

(1) the committee composed of parents established pursuant to section 7814(c)(4) of this title approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purpose described in section 7811 of this title.

(Pub. L. 89–10, title IX, § 9115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3778; amended Pub. L. 105–332, § 3(c)(2), Oct. 31, 1998, 112 Stat. 3125.)

REFERENCES IN TEXT

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(5), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (b)(5), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(5). Pub. L. 105–332, which directed substitution of ''Carl D. Perkins Vocational and Technical Education Act of 1998'' for ''Carl D. Perkins Vocational and Technical Education Act'', was executed by making the substitution for ''Carl D. Perkins Vocational and Applied Technology Education Act'' to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7814 of this title.

§ 7816. Student eligibility forms

(a) In general

The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b) of this section.

(b) Forms

(1) In general

The form described in subsection (a) of this section shall include—

(A) either—

(i)(I) the name of the tribe or band of Indians (as defined in section 7881(4) of this title) with respect to which the child claims membership;

(II) the enrollment number establishing the membership of the child (if readily available); and

(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

(C) the name and address of the parent or legal guardian of the child;

(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(E) any other information that the Secretary considers necessary to provide an accurate program profile.

(2) Minimum information

In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 7813 of this title, an eligibility form prepared pursuant to this section for a child shall include—

(A) the name of the child;

(B) the name of the tribe or band of Indians (as defined in section 7881(4) of this title)

with respect to which the child claims eligibility; and

(C) the dated signature of the parent or guardian of the child.

(3) Failure

The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 7813 of this title.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7881 of this title.

(d) Forms and standards of proof

The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

(1) to establish such eligibility; and

(2) to meet the requirements of subsection (a) of this section.

(e) Documentation

For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 7813 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) of this section shall be construed to require the furnishing of an enrollment number.

(f) Monitoring and evaluation review

(1) In general

(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) False information

Any local educational agency that provides false information in an application for a grant under this subpart shall—

(A) be ineligible to apply for any other grant under this subpart; and

(B) be liable to the United States for any funds that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (d) of this section shall not be counted for the purpose of computing the amount of a grant under section 7813 of this title.

(g) Distribution

For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

(1) section 2010 of title 25; and

(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147) [25 U.S.C. 452 et seq.],

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

(Pub. L. 89–10, title IX, § 9116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3779.)

REFERENCES IN TEXT

The Indian Elementary and Secondary School Assistance Act, referred to in subsecs. (d) and (f)(1)(B), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92–318, title IV, § 411(a), June 23, 1972, 86 Stat. 335, as amended, which was classified generally to subchapter III (§ 241aa et seq.) of chapter 13 of this title, prior to repeal by Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414.

Act of April 16, 1934, referred to in subsec. (g)(2), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7812, 7813 of this title.

§ 7817. Payments

(a) In general

Subject to subsections (b) and (c) of this section, the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7813 of this title. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) Payments taken into account by the State

The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) Reduction of payment for failure to maintain fiscal effort

(1) In general

The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7813 of this title for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

(2) Failure

If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

(3) Waiver

(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

(d) Reallocations

The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

(2) otherwise become available for reallocation under this subpart.

(Pub. L. 89–10, title IX, § 9117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3781.)

REFERENCES IN TEXT

The Indian Education Act of 1988, referred to in subsec. (b), is part C (§§ 5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395. Subpart 1 (§§ 5311–5316) of the Act was classified generally to subchapter I (§ 2601 et seq.) of chapter 28 of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976.

§ 7818. State educational agency review

(a) Application

Each entity desiring assistance under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require except that this subsection shall not apply to Bureau-funded schools.

(b) Special rule

Before submitting an application under subsection (a) of this section to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

(Pub. L. 89–10, title IX, § 9118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782.)

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7874, 7882 of this title.

§ 7831. Improvement of educational opportunities for Indian children

(a) Purpose

(1) In general

It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

(2) Coordination

The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

(A) other programs funded under this chapter; and

(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

(b) Eligible entities

For the purpose of this section, the term ''eligible entity'' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

(c) Grants authorized

(1) In general

The Secretary shall award grants to eligible entities to enable such entities to carry out

activities that meet the purpose specified in subsection (a)(1) of this section, including—

(A) innovative programs related to the educational needs of educationally deprived children;

(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

(K) other services that meet the purpose described in subsection (a)(1) of this section.

(2) Preservice or inservice training

Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

(d) Grant requirements and applications

(1) Grant requirements

(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) of this section for a period not to exceed 5 years.

(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) of this section over a period of more than 1 year.

(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

(I) educational merit; and

(II) the ability to be replicated.

(2) Application

(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

(iii) such other assurances and information as the Secretary may reasonably require.

(Pub. L. 89–10, title IX, § 9121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782.)

§ 7832. Professional development

(a) Purposes

The purposes of this section are—

(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

(b) Eligible entities

For the purpose of this section, the term ''eligible entity'' means—

(1) an institution of higher education, including an Indian institution of higher education;

(2) a State or local educational agency, in consortium with an institution of higher education; and

(3) an Indian tribe or organization, in consortium with an institution of higher education.

(c) Program authorized

The Secretary is authorized to award grants to eligible entities having applications approved

under this section to enable such entities to carry out the activities described in subsection (d) of this section.

(d) Authorized activities

(1) In general

Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

(2) Special rules

(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) Application

(1) In general

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

(2) Preference

In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

(f) Special rule

In making grants under this section, the Secretary—

(1) shall consider the prior performance of the eligible entity; and

(2) may not limit eligibility to receive a grant under this section on the basis of—

(A) the number of previous grants the Secretary has awarded such entity; or

(B) the length of any period during which such entity received such grants.

(g) Grant period

Each grant under this section shall be awarded for a program of not more than 5 years.

(h) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

(A) perform work—

(i) related to the training received under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated part of the assistance received.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

(Pub. L. 89–10, title IX, § 9122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3784.)

§ 7833. Fellowships for Indian students

(a) Fellowships

(1) Authority

The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

(2) Requirements

The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

(A) of not more than 4 academic years; and

(B) that leads—

(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) Stipends

The Secretary shall pay to Indian students awarded fellowships under subsection (a) of this section such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments to institutions in lieu of tuition

The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

(d) Special rules

(1) In general

If a fellowship awarded under subsection (a) of this section is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

(2) Written notice

Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) of this section for such academic term written notice of—

(A) the amount of the fellowship; and

(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

(3) Priority

Not more than 10 percent of the fellowships awarded under subsection (a) of this section shall be awarded, on a priority basis, to persons receiving training in guidance counseling

with a speciality in the area of alcohol and substance abuse counseling and education.

(e) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

(A) perform work—

(i) related to the training for which the individual receives assistance under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated portion of such assistance.

(2) Reporting procedure

The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

(f) Administration of fellowships

The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

(Pub. L. 89–10, title IX, § 9123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3786.)

§ 7834. Gifted and talented

(a) Program authorized

The Secretary is authorized to—

(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

(2) support demonstration projects described in subsection (c) of this section.

(b) Eligible entities

The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a) of this section, with—

(1) two tribally controlled community colleges that—

(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.]; and

(B) are fully accredited; or

(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

(c) Use of funds

(1) In general

The grants made, or contracts entered into, by the Secretary under subsection (a) of this section shall be used for—

(A) the establishment of centers described in subsection (a) of this section; and

(B) carrying out demonstration projects designed to—

(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

(2) Subcontracts

Each recipient of a grant or contract under subsection (a) of this section may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

(3) Demonstration projects

Demonstration projects assisted under subsection (a) of this section may include—

(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

(i) the emotional and psychosocial needs of such students; and

(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including but not limited to—

(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

(ii) mentoring and apprenticeship programs;

(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) of this section with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a) of this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

(4) Application

Each entity desiring a grant under subsection (a) of this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(d) Additional grants

(1) In general

The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as ''Bureau schools'') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

(A) gifted and talented students;

(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

(D) mathematics and science education.

(2) Applications

Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

(3) Special rule

Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

(4) Requirements

In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

(5) Grant period

Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

(6) Dissemination

(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b) of this section.

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

(7) Evaluation costs

(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) of this section who conduct demonstration projects under such subsection.

(B) If no funds are provided under subsection (b) of this section for—

(i) the evaluation of activities assisted under paragraph (1);

(ii) technical assistance and coordination with respect to such activities; or

(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

(e) Information network

The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

(Pub. L. 89–10, title IX, § 9124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3787; amended Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (b)(1)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

AMENDMENTS

1998—Subsec. (b)(1)(A). Pub. L. 105–244 substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 7835. Grants to tribes for education administrative planning and development

(a) In general

The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

(2) develop education codes for schools within the territorial jurisdiction of the tribe;

(3) provide support services and technical assistance to schools serving children of the tribe; and

(4) perform child-find screening services for the preschool-aged children of the tribe to—

(A) ensure placement in appropriate educational facilities; and

(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) Period of grant

Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the

grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A) of this section.

(c) Application for grant

(1) In general

Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

(3) Approval

The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

(d) Restriction

A tribe may not receive funds under this section if such tribe receives funds under section 2024 of title 25.[1]

(e) Authorization of appropriations

There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

(Pub. L. 89–10, title IX, § 9125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3789.)

REFERENCES IN TEXT

Section 2024 of title 25, referred to in subsec. (d), was in the original ''section 1144 of the Indian Education Amendments of 1978'' which was translated as if it read section 1144 of the Education Amendments of 1978 to reflect the probable intent of Congress.

[1] See References in Text note below.

SUBPART 3—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7874, 7882 of this title.

§ 7851. Improvement of educational opportunities for adult Indians

(a) In general

The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs that are designed to stimulate—

(A) basic literacy opportunities for all nonliterate Indian adults; and

(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

(b) Educational services

The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) Information and evaluation

The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

(d) Applications

(1) In general

Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

(3) Approval

The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

(4) Priority

In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(Pub. L. 89–10, title IX, § 9131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3790.)

SUBPART 4—NATIONAL RESEARCH ACTIVITIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 7872, 7873, 7882, 8857 of this title.

§ 7861. National activities

(a) Authorized activities

The Secretary may use funds made available under section 7882(b) of this title for each fiscal year to—

(1) conduct research related to effective approaches for the education of Indian children and adults;

(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

(3) collect and analyze data on the educational status and needs of Indians; and

(4) carry out other activities that are consistent with the purpose of this part.

(b) Eligibility

The Secretary may carry out any of the activities described in subsection (a) of this section directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

(Pub. L. 89–10, title IX, § 9141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792.)

SUBPART 5—FEDERAL ADMINISTRATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7882 of this title.

§ 7871. National Advisory Council on Indian Education

(a) Membership

There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ''Council''), which shall—

(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

(2) represent different geographic areas of the United States.

(b) Duties

The Council shall—

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

(A) with respect to which the Secretary has jurisdiction; and

(B)(i) that includes Indian children or adults as participants; or

(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

(Pub. L. 89–10, title IX, § 9151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792.)

§ 7872. Peer review

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4 of this part.

(Pub. L. 89–10, title IX, § 9152, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

§ 7873. Preference for Indian applicants

In making grants under subpart 2, 3, or 4 of this part, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

(Pub. L. 89–10, title IX, § 9153, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

§ 7874. Minimum grant criteria

The Secretary may not approve an application for a grant under subpart 2 or 3 of this part unless the application is for a grant that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

(2) based on relevant research findings.

(Pub. L. 89–10, title IX, § 9154, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793.)

SUBPART 6—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

§ 7881. Definitions

As used in this part:

(1) Adult

The term ''adult'' means an individual who—

(A) has attained the age of 16 years; or

(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

(2) Adult education

The term ''adult education'' has the meaning given such term in section 9202 of this title.

(3) Free public education

The term ''free public education'' means education that is—

(A) provided at public expense, under public supervision and direction, and without tuition charge; and

(B) provided as elementary or secondary education in the applicable State or to preschool children.

(4) Indian

The term ''Indian'' means an individual who is—

(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

(i) any tribe or band terminated since 1940; and

(ii) any tribe or band recognized by the State in which the tribe or band resides;

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

(C) considered by the Secretary of the Interior to be an Indian for any purpose;

(D) an Eskimo, Aleut, or other Alaska Native; or

(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding October 20, 1994.

(Pub. L. 89–10, title IX, § 9161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793; amended Pub. L. 105–220, title II, § 251(b)(2)(E), Aug. 7, 1998, 112 Stat. 1080.)

REFERENCES IN TEXT

The Indian Education Act of 1988 as it was in effect the day preceding October 20, 1994, referred to in par. (4)(E), is part C (§§ 5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395, which was classified principally to chapter 28 (§ 2601 et seq.) of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976.

AMENDMENTS

1998—Par. (2). Pub. L. 105–220 substituted ''section 9202'' for ''section 1201a(2)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7816 of this title; title 25 section 2902.

§ 7882. Authorizations of appropriations

(a) Subpart 1

For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) Subparts 2 through 4

For the purpose of carrying out subparts 2, 3, and 4 of this part, there are authorized to be appropriated to the Department of Education $26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(c) Subpart 5

For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title IX, § 9162, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7813, 7861 of this title.

PART B—NATIVE HAWAIIANS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 61 (§ 4901 et seq.) of this title prior to repeal by Pub. L. 103–382, § 363.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6212 of this title.

§ 7901. Short title

This part may be cited as the ''Native Hawaiian Education Act''.

(Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

§ 7902. Findings

The Congress finds and declares as follows:

(1) Native Hawaiians are a distinct and unique indigenous people with a historical

continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

(3) A unified monarchial government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

(6) In 1898, the joint resolution entitled ''A Joint Resolution to provide for annexing the Hawaiian Islands to the United States'', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used ''solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes''.

(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: ''One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.''.

(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area ''only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.''.

(10) Under the Act entitled ''An Act to provide for the admission of the State of Hawai'i into the Union'' approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

(11) In 1959, under the Act entitled ''An Act to provide for the admission of the State of Hawai'i into the Union'', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State ''in public trust'' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974 [42 U.S.C. 2991 et seq.], the American Indian Religious Freedom Act [42 U.S.C. 1996, 1996a], the National Museum of the American Indian Act [20 U.S.C. 80q et seq.], the Native American Graves Protection and Repatriation Act [25 U.S.C. 3001 et seq.], the National Historic Preservation Act [16 U.S.C. 470 et seq.], and the Native American Languages Act [25 U.S.C. 2901 et seq.].

(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the ''Native Hawaiian Educational Assessment Project'', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

(i) late or no prenatal care;

(ii) half of Native Hawaiian women who give birth are unmarried; and

(iii) high rates of births to teenage parents;

(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai‘i; and

(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai‘i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

(19) After the overthrow of the Kingdom of Hawai‘i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ''I ka ‘ōlelo no ke ola; I ka ‘ōlelo no ka make. In the language rests life; In the language rests death.''.

(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(21) The State of Hawai‘i, in the constitution and statutes of the State of Hawai‘i—

(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai‘i, which may be used as the language of instruction for all subjects and grades in the public school system.

(Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794.)

REFERENCES IN TEXT

Public Law 103–150, referred to in par. (5), is Pub. L. 103–150, Nov. 23, 1993, 107 Stat. 1510, which is not classified to the Code.

A Joint Resolution to provide for annexing the Hawaiian Islands to the United States, approved July 7, 1898, referred to in par. (6), is act July 7, 1898, No. 55, 30 Stat. 750, known as the Newlands Resolution. For complete classification of this Act to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in pars. (7), (8), (11), and (12), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code. Section 201 of the Act was classified to section 692 of Title 48.

Act of June 20, 1938, referred to in par. (9), is act June 20, 1938, ch. 530, 52 Stat. 781, which is classified to sections 391b, 391b–1, 392b, 392c, 396, and 396a of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

An Act to provide for the admission of the State of Hawaii into the Union, referred to in pars. (10) and (11), is Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, as amended, popularly known as the Hawaii Statehood Admissions Act, which is set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Native American Programs Act of 1974, referred to in par. (13), is title VIII of Pub. L. 88–452, as added by Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

The American Indian Religious Freedom Act, referred to in par. (13), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The National Museum of the American Indian Act, referred to in par. (13), is Pub. L. 101–185, Nov. 28, 1989, 103 Stat. 1336, which is classified generally to subchapter XIII (§ 80q et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 80q of this title and Tables.

The Native American Graves Protection and Repatriation Act, referred to in par. (13), is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§ 3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

The National Historic Preservation Act, referred to in par. (13), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 of Title 16 and Tables.

The Native American Languages Act, referred to in par. (13), is title I of Pub. L. 101–477, Oct. 30, 1990, 104 Stat. 1153, which is classified generally to chapter 31 (§ 2901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of Title 25 and Tables.

The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, referred to in pars. (16) and (17), is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, as amended. Title IV of the Act was classified generally to chapter 61 (§ 4901 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975.

§ 7903. Purpose

It is the purpose of this part to—

(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the[1] subchapter; and

(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

(Pub. L. 89–10, title IX, § 9203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798.)

§ 7904. Native Hawaiian Education Council and island councils

(a) Establishment of Native Hawaiian Education Council

In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the ''Education Council'').

(b) Composition of Education Council

The Education Council shall consist of not more than 25 members, including a representative of—

(1) each recipient of funds from the Secretary under this part;

(2) the State of Hawai'i Department of Education;

(3) the State of Hawai'i Office of Hawaiian Affairs;

(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

(5) each Native Hawaiian education island council established under subsection (f) of this section.

(c) Conditions and terms

At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

(d) Administrative grant for Education Council

The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

(e) Additional duties of Education Council

(1) In general

The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any

[1] So in original. Probably should be ''this''.

information that the Education Council provides to the Secretary pursuant to subsection (i) of this section.

(2) Annual report

The Education Council shall present to the Secretary an annual report on the Education Council's activities.

(3) Island council support and assistance

The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) of this section as the Secretary deems appropriate.

(f) Establishment of island councils

(1) In general

In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as ''island councils'') for the following islands:

(A) Hawai'i.
(B) Maui and Lana'i.
(C) Moloka'i.
(D) Kaua'i and Ni'ihau.
(E) O'ahu.

(2) Composition of island councils

Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians[1]

(g) Administrative provisions relating to Education Council and island councils

The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

(h) Compensation

Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

(i) Report

Not later than four years after October 20, 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

[1] So in original. Probably should be followed by a period.

(j) Authorization of appropriations

There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 7905. Native Hawaiian Family-Based Education Centers

(a) General authority

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

(1) parent-infant programs for prenatal through three-year-olds;
(2) preschool programs for four- and five-year-olds;
(3) continued research and development; and
(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

(b) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the centers described in subsection (a) of this section, there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800.)

§ 7906. Native Hawaiian higher education program

(a) General authority

(1) In general

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

(2) Activities

Such program may include—

(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and

(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are under-represented and with fellowship awards to be based on academic potential and financial need;

(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A) of this section;

(E) appropriate research and evaluation of the activities authorized by this section; and

(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) Special conditions required

For the purpose of fellowships awarded under subsection (a) of this section, fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

(c) Special rule

No policy shall be made in implementing this section to prevent a Native Hawaiian student enrolled at an accredited two- or four-year degree granting institution of higher education outside of the State of Hawai‘i from receiving a fellowship pursuant to subsections (a) and (b) of this section.

(d) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800.)

§ 7907. Native Hawaiian gifted and talented program

(a) General authority

The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

(b) Uses of funds

The program funded under this section may include—

(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

(A) the emotional and psychosocial needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) leadership programs designed to—

(A) replicate programs throughout the State of Hawai‘i for gifted and talented students who are not served under this section; and

(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

(4) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

(c) Information provision

The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily

available to the educational community at large.

(d) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3801.)

§ 7908. Native Hawaiian special education program

(a) General authority

The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

(2) the identification of the special education needs of such students, particularly with respect to—

(A) the emotional and psychosocial needs of such students; and

(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such students;

(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

(C) the outcomes and benefits of activities assisted under this section upon such students.

(b) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3802.)

REFERENCES IN TEXT

The Education of Individuals with Disabilities Education Act, referred to in subsec. (a)(3), probably means the Individuals with Disabilities Education Act, which is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 7909. Native Hawaiian curriculum development, teacher training and recruitment program

(a) General authority

The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

(1) Curricula

The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

(2) Preteacher training

The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai‘i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

(3) Inservice teacher training

The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

(4) Teacher recruitment

The development and implementation of teacher recruitment programs to meet the objectives of—

(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

(b) Priority

In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) of this section that—

(1) focus on the needs of at-risk youth; or

(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) of this section shall coordinate in the development of new curricula.

(c) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3803.)

§ 7910. Native Hawaiian community-based education learning centers

(a) General authority

The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

(b) Purpose

The learning centers described in subsection (a) of this section shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

(1) preschool programs;

(2) after-school programs; and

(3) vocational and adult education programs.

(c) Administrative costs

Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804.)

§ 7911. Administrative provisions

(a) Application required

No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this subchapter.

(b) Special rule

Each application submitted under this subchapter shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

(Pub. L. 89–10, title IX, § 9211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804.)

§ 7912. Definitions

For the purposes of this part—

(1) The term ''Native Hawaiian'' means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai‘i, as evidenced by—

(i) genealogical records;

(ii) Kūpuna (elders) or Kama‘āina (long-term community residents) verification; or

(iii) certified birth records.

(2) The term ''Native Hawaiian educational organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization;

(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

(D) has demonstrated expertise in research and program development.

(3) The term ''Native Hawaiian Organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

(C) is recognized by the Governor of Hawai‘i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

(4) The term ''Native Hawaiian language'' means the single Native American language indigenous to the original inhabitants of the State of Hawai‘i.

(5) The term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai‘i.

(6) The term ''Native Hawaiian community-based organization'' means any organization

which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

(Pub. L. 89–10, title IX, § 9212, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1059d, 2326, 9161 of this title; title 25 section 2902; title 29 section 2911.

PART C—ALASKA NATIVE EDUCATION

§ 7931. Short title

This part may be cited as the ''Alaska Native Educational Equity, Support and Assistance Act''.

(Pub. L. 89–10, title IX, § 9301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

§ 7932. Findings

The Congress finds and declares:

(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being and preservation of the culture of Alaska Natives.

(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

(3) Alaska Native children enter and exit school with serious educational handicaps.

(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

(Pub. L. 89–10, title IX, § 9302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805.)

§ 7933. Purpose

It is the purpose of this part to—

(1) recognize the unique educational needs of Alaska Natives;

(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

(Pub. L. 89–10, title IX, § 9303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806.)

§ 7934. Alaska Native educational planning, curriculum development, teacher training and recruitment program

(a) General authority

The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

(1) Educational planning

The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

(2) Implementation of educational plans

The adoption and implementation of specific educational plans developed under subsection[1] (1) above.

(3) Curricula

The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

(B) curricula and teaching materials for instructions in Native languages.

(4) Preteacher training

The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

[1] So in original. Probably should be ''paragraph''.

(5) Teacher recruitment

The development and implementation of teacher recruitment programs to meet the objectives of—

(A) increasing the numbers of teachers who are Alaska Natives;

(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

(C) improving the teacher selection processes in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

(6) Inservice teacher training

The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

(b) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806.)

§ 7935. Alaska Native home based education for preschool children

(a) General authority

The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

(b) Program elements

Home based education programs for Alaska Native children shall include—

(1) parent-infant programs for prenatal through three-year olds;

(2) preschool programs for four- and five-year olds;

(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

(4) continued research and development; and

(5) a long-term followup and assessment program.

(c) Eligibility of HIPPY programs

Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

(d) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3807.)

§ 7936. Alaska Native student enrichment programs

(a) General authority

The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

(b) Uses of funds

The program funded under this section may include—

(1) the identification of the students eligible to participate in the program;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

(c) Administrative costs

Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

(Pub. L. 89–10, title IX, § 9306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3808.)

§ 7937. Administrative provisions

(a) Application required

No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

(b) Applications by local school districts or State educational entities

Local school districts or State educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

(c) Consultation required

Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

(d) Local educational agency coordination

Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

(e) Implementation of authorities

The Secretary shall expeditiously obligate funds appropriated as provided in this part.

(Pub. L. 89–10, title IX, § 9307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809.)

§ 7938. Definitions

For purposes of this part—

(1) the term ''Alaska Native'' has the same meaning as the term ''Native'' has in section 1602(b) of title 43; and

(2) the term ''Alaska Native organization'' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

(A) has or commits to acquire expertise in the education of Alaska Natives; and

(B) has Alaska Natives in substantive and policymaking positions within the organization.

(Pub. L. 89–10, title IX, § 9308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1059d of this title.

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 8001. Fund for the improvement of education

(a) Fund authorized

From funds appropriated under subsection (d) of this section, the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

(b) Uses of funds

(1) In general

Funds under this section may be used for—

(A) activities that will promote systemic education reform at the State and local levels, such as—

(i) research and development related to challenging State content and challenging State student performance standards;

(ii) the development and evaluation of model strategies for—

(I) assessment of student learning;

(II) professional development for teachers and administrators;

(III) parent and community involvement; and

(IV) other aspects of systemic reform;

(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

(v) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

(C) joint activities with other agencies to assist the effort to achieve the National

Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

(E) activities to promote and evaluate coordinated pupil services programs;

(F) activities to promote comprehensive health education;

(G) activities to promote environmental education;

(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

(K) activities to promote metric education;

(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

(O) experiential-based learning, such as service-learning;

(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

(Q) other programs and projects that meet the purposes of this section;

(R) activities to promote child abuse education and prevention programs;

(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits, and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

(W) programs under section 8002 of this title;

(X) programs under section 8003 of this title;

(Y) programs under section 8004 of this title; and

(Z) programs under section 8005 of this title;[1]

(2) Additional uses

The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act [20 U.S.C. 3981 et seq.], as such Acts were in effect on the day preceding October 20, 1994.

(3) Special rule

The Secretary shall not make available more than $1,000,000 to carry out paragraph (1)(R), nor more than $1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

(c) Awards

(1) In general

The Secretary may—

(A) make awards under this section on the basis of competitions announced by the Secretary; and

(B) support meritorious unsolicited proposals.

(2) Special rule

The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

(3) Peer review

The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) of this section for the cost of such peer review.

(d) Authorization

For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (b)(2), is Pub. L. 89–10, as

[1] So in original. The semicolon probably should be a period.

added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended, known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

The Fund for the Improvement and Reform of Schools and Teaching Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (b)(2), is part B (§§ 3201–3243) of title III of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 338, which was classified generally to chapter 60 (§ 4801 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975.

The Education for Economic Security Act, referred to in subsec. (b)(2), is Pub. L. 98–377, Aug. 11, 1984, 98 Stat. 1267, as amended. Title III of the Act, as in effect on the day preceding October 20, 1994, is classified generally to subchapter III (§ 3981 et seq.) of chapter 52 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(A)(i). Pub. L. 104–134 struck out ''and opportunity-to-learn standards or strategies for student learning'' after ''student performance standards''.

§ 8002. Elementary school counseling demonstration

(a) Counseling demonstration

(1) In general

The Secretary may award grants under this section to establish or expand elementary school counseling programs.

(2) Priority

In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

(A) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

(B) propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

(C) show the greatest potential for replication and dissemination.

(3) Equitable distribution

In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

(4) Duration

A grant under this section shall be awarded for a period not to exceed three years.

(5) Maximum grant

A grant under this section shall not exceed $400,000 for any fiscal year.

(b) Applications

(1) In general

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application for a grant under this section shall—

(A) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

(G) describe how any diverse cultural populations, if applicable, would be served through the program;

(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

(c) Use of funds

(1) In general

Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

(2) Program requirements

Each program assisted under this section shall—

(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

(B) use a developmental, preventive approach to counseling;

(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, academic and career planning, or to improve social functioning;

(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

(3) Report

The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 8941 of this title, but in no case later than January 30, 1998.

(4) Dissemination

The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

(5) Limit on administration

Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

(d) Definitions

For purposes of this section—

(1) the term ''school counselor'' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

(A) possesses State licensure or certification granted by an independent professional regulatory authority;

(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

(2) the term ''school psychologist'' means an individual who—

(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

(B) possesses State licensure or certification in the State in which the individual works; or

(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

(3) the term ''school social worker'' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

(4) the term ''supervisor'' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

(Pub. L. 89–10, title X, § 10102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3812.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8003. Partnerships in character education pilot project

(a) Program authorized

(1) In general

The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d) of this section, as well as other character elements identified by applicants.

(2) Maximum amount of grant

No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

(3) Duration

Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

(b) State educational agency applications

(1) Requirement

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Partnerships

Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

(3) Application

Each application under this section shall include—

(A) a list of the local educational agencies entering into the partnership with the State educational agency;

(B) a description of the goals of the partnership;

(C) a description of activities that will be pursued by the participating local educational agencies, including—

(i) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) curriculum and instructional practices;

(iii) methods of teacher training and parent education that will be used or developed; and

(iv) examples of activities that will be carried out under this part;

(D) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

(E) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(4) Non-partner local educational agencies

Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

(c) Evaluation and program development

(1) Requirement

Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

(A) by the mid-term of the program; and

(B) not later than one year after completion of such program.

(2) Contracts for evaluation

Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b) of this section.

(3) Factors

Factors which may be considered in evaluating the success of the program may include—

(A) discipline problems;

(B) students' grades;

(C) participation in extracurricular activities;

(D) parental and community involvement;

(E) faculty and administration involvement; and

(F) student and staff morale.

(4) Materials and program development

Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

(d) Elements of character

(1) In general

Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

(A) Caring.

(B) Civic virtue and citizenship.

(C) Justice and fairness.

(D) Respect.

(E) Responsibility.

(F) Trustworthiness.

(G) Any other elements deemed appropriate by the members of the partnership.

(2) Additional elements of character

A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

(e) Use of funds

Of the total funds received by a State educational agency in any fiscal year under this section—

(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

(A) not more than 10 percent of such funds may be used for administrative purposes; and

(B) the remainder of such funds may be used for—

(i) collaborative initiatives with local educational agencies;

(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

(iii) other appropriate activities; and

(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

(A) not more than 10 percent of such funds may be retained for administrative purposes; and

(B) the remainder of such funds may be used to—

(i) award subgrants to schools within the local educational agency; and

(ii) pursue collaborative efforts with the State educational agency.

(f) Selection of grantees

(1) Criteria

The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b) of this section, taking into consideration such factors as—

(A) the quality of the activities proposed by local educational agencies;

(B) the extent to which the program fosters in students the elements of character;

(C) the extent of parental, student, and community involvement;

(D) the number of local educational agencies involved in the effort;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be realistically achieved.

(2) Diversity of projects

The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

(Pub. L. 89–10, title X, § 10103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3815.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8004. Promoting scholar-athlete competitions

(a) In general

The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organizations for the costs of conducting scholar-athlete games to be held in 1999.

(b) Priority

In awarding the grant under subsection (a) of this section, the Secretary shall give priority to a nonprofit organization that—

(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, title 26, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

(2) has the capability and experience in administering federally funded scholar-athlete games;

(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1999;

(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States internationally;[1] and

(6) has plans for conducting scholar-athlete games after 1999 without Federal assistance.

(Pub. L. 89–10, title X, § 10104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818; amended Pub. L. 105–332, § 2, Oct. 31, 1998, 112 Stat. 3125.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–332, § 2(1), substituted ''1999'' for ''1995''.

Subsec. (b)(4). Pub. L. 105–332, § 2(2)(A), substituted ''1999'' for ''1995''.

Subsec. (b)(5). Pub. L. 105–332, § 2(2)(B), struck out ''in 1996 and thereafter, as well as replicate such program'' after ''United States''.

Subsec. (b)(6). Pub. L. 105–332, § 2(2)(C), substituted ''1999'' for ''1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8005. Smaller learning communities

(a) In general

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

(1) strategies and methods the applicant will use to create the smaller learning community or communities;

(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

[1] So in original.

(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this chapter or other Federal laws;

(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

(b) Authorized activities

Funds under this section may be used—

(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

(Pub. L. 89–10, title X, § 10105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8001 of this title.

§ 8006. National student and parent mock election

(a) In general

The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an ''issue forum'';

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences and speechwriting competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) Requirement

Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

(Pub. L. 89–10, title X, § 10106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8007. Model projects

(a) Program authorized

The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

(b) Priority

In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

(Pub. L. 89–10, title X, § 10107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

PART B—GIFTED AND TALENTED CHILDREN

§ 8031. Short title

This part may be cited as the ''Jacob K. Javits Gifted and Talented Students Education Act of 1994''.

(Pub. L. 89–10, title X, § 10201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8032. Findings and purposes

(a) Findings

The Congress finds and declares that—

(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

(A) develop a rich and challenging curriculum for all students; and

(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

(b) Statement of purpose

It is the purpose of this part—

(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

(Pub. L. 89–10, title X, § 10202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820.)

§ 8033. Construction

Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title X, § 10203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3822.)

§ 8034. Authorized programs

(a) Establishment of program

(1) In general

From the sums appropriated under section 8037 of this title in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) Application

Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

(B) the proposed programs can be evaluated.

(b) Uses of funds

Programs and projects assisted under this section may include—

(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

(7) carrying out—

(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

(c) Establishment of National Center

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b) of this section.

(2) Director

Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

(d) Limitation

Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(7) or (c) of this section.

(e) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

(2) may include collaborative research activities which are jointly funded and carried out with such Office.

(Pub. L. 89–10, title X, § 10204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3822.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8035 of this title.

§ 8035. Program priorities

(a) General priority

In the administration of this part the Secretary shall give highest priority—

(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

(b) Service priority

In approving applications for assistance under section 8034(a)(2) of this title, the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1) of this section.

(Pub. L. 89–10, title X, § 10205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3823.)

§ 8036. General provisions

(a) Participation of private school children and teachers

In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

(b) Review, dissemination, and evaluation

The Secretary shall—

(1) use a peer review process in reviewing applications under this part;

(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

(3) evaluate the effectiveness of programs under this part in accordance with section 8941

of this title, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

(c) Program operations

The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

(1) administer the programs authorized by this part;

(2) coordinate all programs for gifted and talented students administered by the Department;

(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

(Pub. L. 89–10, title X, § 10206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824.)

§ 8037. Authorization of appropriations

There are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89–10, title X, § 10207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8034 of this title.

PART C—PUBLIC CHARTER SCHOOLS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 7331, 7351, 8881 of this title.

SUBPART 1—BASIC CHARTER SCHOOL GRANT PROGRAM

§ 8061. Findings and purpose

(a) Findings

The Congress finds that—

(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) Purpose

It is the purpose of this subpart to increase national understanding of the charter schools model by—

(1) providing financial assistance for the planning, program design and initial implementation of charter schools;

(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents; and

(3) expanding the number of high-quality charter schools available to students across the Nation.

(Pub. L. 89–10, title X, § 10301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3824; amended Pub. L. 105–278, § 3(a), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–554 substituted ''subpart'' for ''part'' in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105–278, § 3(a)(1)(A), inserted ''planning, program'' before ''design''.

Subsec. (b)(3). Pub. L. 105–278, § 3(a)(1)(B), (2), (3), added par. (3).

§ 8062. Program authorized

(a) In general

The Secretary may award grants to State educational agencies having applications approved pursuant to section 8063 of this title to enable such agencies to conduct a charter school grant program in accordance with this subpart.

(b) Special rule

If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application ap-

proved under section 8063 of this title, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 8063(c) of this title.

(c) Program periods

(1) Grants to States

Grants awarded to State educational agencies under this subpart shall be awarded for a period of not more than 3 years.

(2) Grants to eligible applicants

Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

(A) not more than 18 months for planning and program design;

(B) not more than 2 years for the initial implementation of a charter school; and

(C) not more than 2 years to carry out dissemination activities described in section 8064(f)(6)(B) of this title.

(d) Limitation

A charter school may not receive—

(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2) of this section; or

(2) more than one grant for activities under subparagraph (C) of subsection (c)(2) of this section.

(e) Priority treatment

(1) In general

(A) Fiscal years 1999, 2000, and 2001

In awarding grants under this subpart for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 8067 of this title that are in excess of $51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

(B) Succeeding fiscal years

In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 8067 of this title, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

(2) Review and evaluation priority criteria

The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

(3) Priority criteria

The criteria referred to in paragraph (1) are the following:

(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

(B) The State—

(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

(f) Amount criteria

In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

(Pub. L. 89–10, title X, § 10302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3825; amended Pub. L. 105–278, § 3(b), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Pub. L. 106–554 substituted ''subpart'' for ''part'' wherever appearing.

1998—Subsec. (c)(2)(C). Pub. L. 105–278, § 3(b)(1), added subpar. (C).

Subsec. (d). Pub. L. 105–278, § 3(b)(2), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.''

Subsecs. (e), (f). Pub. L. 105–278, § 3(b)(3), added subsecs. (e) and (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8063, 8064 of this title.

§ 8063. Applications

(a) Applications from State agencies

Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) Contents of State educational agency application

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

(2) describe how the State educational agency—

(A) will inform each charter school in the State regarding—

(i) Federal funds that the charter school is eligible to receive; and

(ii) Federal programs in which the charter school may participate;

(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

(A) a description of the educational program to be implemented by the proposed charter school, including—

(i) how the program will enable all students to meet challenging State student performance standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of—

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be—

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 1413(a)(5) and 1413(e)(1)(B) of this title;

(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 8062(c)(2)(C) of this title, a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

(N) such other information and assurances as the Secretary and the State educational agency may require.

(c) Contents of eligible applicant application

Each eligible applicant desiring a grant pursuant to section 8062(b) of this title shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) Contents of application

Each application submitted pursuant to subsection (c) of this section shall contain—

(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3) of this section, except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking ''and the State educational agency'' each place such term appears; and

(2) assurances that the State educational agency—

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 8064(e) of this title.

(Pub. L. 89–10, title X, § 10303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3826; amended Pub. L. 105–278, § 3(c), Oct. 22, 1998, 112

Stat. 2684; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Subsecs. (a), (b)(3)(K). Pub. L. 106–554 substituted ''subpart'' for ''part''.

1998—Subsec. (b)(1). Pub. L. 105–278, §3(c)(1)(A), inserted ''and'' at end.

Subsec. (b)(2), (3). Pub. L. 105–278, §3(c)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(3)(E). Pub. L. 105–278, §3(c)(1)(D)(i), inserted ''planning, program'' before ''design''.

Subsec. (b)(3)(L) to (N). Pub. L. 105–278, §3(c)(1)(D)(ii)–(iv), added subpars. (L) and (M) and redesignated former subpar. (L) as (N).

Subsec. (c). Pub. L. 105–278, §3(c)(2), struck out ''8062(e)(1) or'' before ''8062(b)''.

Subsec. (d)(1). Pub. L. 105–278, §3(c)(3), substituted ''subparagraphs (A) through (N)'' for ''subparagraphs (A) through (L)'' and ''subparagraphs (J), (K), and (N)'' for ''subparagraphs (I), (J), and (K)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8062, 8064, 8065 of this title.

§ 8064. Administration

(a) Selection criteria for State educational agencies

The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 8063(b) of this title, after taking into consideration such factors as—

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives;

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

(6) the number of high quality charter schools created under this subpart in the State; and

(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 8062(c)(2)(C) of this title, the quality of those activities and the likelihood that those activities will improve student achievement.

(b) Selection criteria for eligible applicants

The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 8063(c) of this title, after taking into consideration such factors as—

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives;

(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 8062(c)(2)(C) of this title, the quality of those activities and the likelihood that those activities will improve student achievement.

(c) Peer review

The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

(d) Diversity of projects

The Secretary and each State educational agency receiving a grant under this subpart,[1] shall award subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) Waivers

The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 8066(1) of this title, if—

(1) the waiver is requested in an approved application under this subpart; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

(f) Use of funds

(1) State educational agencies

Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

(2) Eligible applicants

Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

(3) Allowable activities

An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

[1] So in original. The comma probably should not appear.

(A) post-award planning and design of the educational program, which may include—

(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include—

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

(4) Administrative expenses

Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

(5) Revolving loan funds

Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

(6) Dissemination

(A) In general

A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

(i) substantial progress in improving student achievement;

(ii) high levels of parent satisfaction; and

(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

(B) Activities

A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

(g) Tribally controlled schools

Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

(1) the eligibility of the school to receive any other Federal, State, or local aid; or

(2) the amount of such aid.

(Pub. L. 89–10, title X, § 10304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3827; amended Pub. L. 105–78, title III, § 315, Nov. 13, 1997, 111 Stat. 1508; Pub. L. 105–278, § 3(d), (k), Oct. 22, 1998, 112 Stat. 2685, 2689; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in subsec. (g), is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

AMENDMENTS

2000—Pub. L. 106–554 substituted ''subpart'' for ''part'' wherever appearing.

1998—Subsec. (a)(6), (7). Pub. L. 105–278, § 3(d)(1), added pars. (6) and (7).

Subsec. (b)(7). Pub. L. 105–278, § 3(d)(2), added par. (7).

Subsec. (e). Pub. L. 105–278, § 3(k), in introductory provisions, made technical amendment to reference in original act which appears in text as reference to section 8066(1) of this title.

Subsec. (f)(1). Pub. L. 105–278, § 3(d)(3)(A), inserted before period at end '', except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)''.

Subsec. (f)(2). Pub. L. 105–278, § 3(d)(3)(B), inserted '', or to disseminate information about the charter school and successful practices in the charter school,'' after ''charter school''.

Subsec. (f)(5). Pub. L. 105–278, § 3(d)(3)(C), substituted ''10 percent'' for ''20 percent''.

Subsec. (f)(6). Pub. L. 105–278, § 3(d)(3)(D), added par. (6).

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8062, 8063 of this title.

§ 8065. National activities

(a) In general

The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

(1) To provide charter schools, either directly or through State educational agencies, with—

(A) information regarding—

(i) Federal funds that charter schools are eligible to receive; and

(ii) other Federal programs in which charter schools may participate; and

(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

(4) To provide—

(A) information to applicants for assistance under this subpart;

(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 8063 of this title;

(C) assistance in the planning and startup of charter schools;

(D) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

(5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

(b) Construction

Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a) of this section.

(Pub. L. 89–10, title X, § 10305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3829; amended Pub. L. 105–278, § 3(f), Oct. 22, 1998, 112 Stat. 2686; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554 substituted ''subpart'' for ''part'' wherever appearing.

1998—Pub. L. 105–278 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

''(1) peer review of applications under section 8064(c) of this title;

''(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

''(3) other activities designed to enhance the success of the activities assisted under this part, such as—

''(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

''(B) collection and dissemination of information on successful charter schools.''

§ 8065a. Federal formula allocation during first year and for successive enrollment expansions

(a) In general

For purposes of the allocation to schools by the States or their agencies of funds under part A of subchapter I of this chapter, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after October 22, 1998, as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

(b) Adjustment and late openings

(1) In general

The measures described in subsection (a) of this section shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

(2) Rule

For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) of this section for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

(Pub. L. 89–10, title X, § 10306, as added Pub. L. 105–278, § 3(g)(2), Oct. 22, 1998, 112 Stat. 2687.)

PRIOR PROVISIONS

A prior section 10306 of Pub. L. 89–10 was renumbered section 10310 and is classified to section 8066 of this title.

§ 8065b. Solicitation of input from charter school operators

To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of subchapter I of this chapter, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

(Pub. L. 89–10, title X, § 10307, as added Pub. L. 105–278, § 3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 10307 of Pub. L. 89–10 was renumbered section 10311 and is classified to section 8067 of this title.

AMENDMENTS

2000—Pub. L. 106–554, which directed the amendment of this section by substituting ''subpart'' for ''part'' wherever appearing, was executed by making the substitution for ''part'' the first place appearing, to reflect the probable intent of Congress.

§ 8065c. Records transfer

State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 1401(11) of this title, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

(Pub. L. 89–10, title X, § 10308, as added Pub. L. 105–278, § 3(g)(2), Oct. 22, 1998, 112 Stat. 2688.)

§ 8065d. Paperwork reduction

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

(Pub. L. 89–10, title X, § 10309, as added Pub. L. 105–278, § 3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Pub. L. 106–554 substituted ''subpart'' for ''part''.

§ 8066. Definitions

As used in this subpart:

(1) The term ''charter school'' means a public school that—

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

(2) The term ''developer'' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(3) The term ''eligible applicant'' means an authorized public chartering agency partici-

pating in a partnership with a developer to establish a charter school in accordance with this subpart.

(4) The term ''authorized public chartering agency'' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

(Pub. L. 89–10, title X, § 10310, formerly § 10306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3829; renumbered § 10310 and amended, Pub. L. 105–278, § 3(g)(1), (h), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (1)(G), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in par. (1)(G), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in par. (1)(G), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (1)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–554, which directed the amendment of this section by substituting ''subpart'' for ''part'' wherever appearing, was executed by making the substitution for ''part'' in introductory provisions and in par. (3), but not in par. (1)(G), to reflect the probable intent of Congress.

1998—Par. (1)(A). Pub. L. 105–278, § 3(h)(1), which directed amendment of subpar. (A) by substituting ''a specific State statute authorizing the granting of charters to schools'' for ''an enabling statute'', was executed by making the substitution for ''an enabling State statute'', to reflect the probable intent of Congress.

Par. (1)(H). Pub. L. 105–278, § 3(h)(2), inserted ''is a school to which parents choose to send their children, and that'' before ''admits''.

Par. (1)(L). Pub. L. 105–278, § 3(h)(3)–(5), added subpar. (L).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 8064, 8071i of this title.

§ 8067. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10311, formerly § 10307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3830; renumbered § 10311 and amended, Pub. L. 105–278, § 3(g)(1), (i), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, § 1(a)(1) [title III, § 322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

AMENDMENTS

2000—Pub. L. 106–554 substituted ''subpart'' for ''part''.

1998—Pub. L. 105–278, § 3(i), substituted ''$100,000,000 for fiscal year 1999'' for ''$15,000,000 for fiscal year 1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8062 of this title.

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§ 8071. Purpose

The purpose of this subpart is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

(Pub. L. 89–10, title X, § 10321, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57.)

§ 8071a. Grants to eligible entities

(a) In general

The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities having applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

(b) Grantee selection

The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 8071i(2)(A) of this title, at least one grant to an eligible entity described in section 8071i(2)(B) of this title, and at least one grant to an eligible entity described in section 8071i(2)(C) of this title, if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

(c) Grant characteristics

Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

(d) Special rule

In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c) of this section, such three-grant

minimum and the second sentence of subsection (b) of this section shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c) of this section.

(Pub. L. 89–10, title X, § 10322, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57.)

§ 8071b. Applications

(a) In general

To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

(b) Contents

An application under subsection (a) of this section shall contain—

(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

(3) a description of the applicant's expertise in capital market financing;

(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

(5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding they need to have adequate facilities; and

(7) such other information as the Secretary may reasonably require.

(Pub. L. 89–10, title X, § 10323, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–58.)

§ 8071c. Charter school objectives

An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 8071d(a) of this title to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(Pub. L. 89–10, title X, § 10324, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8071d, 8071f of this title.

§ 8071d. Reserve account

(a) Use of funds

To assist charter schools to accomplish the objectives described in section 8071c of this title, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 8071e of this title) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one or more of the following purposes:

(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 8071c of this title.

(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 8071c of this title.

(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

(b) Investment

Funds received under this subpart and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

(c) Reinvestment of earnings

Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) of this section and used in accordance with such subsection.

(Pub. L. 89–10, title X, § 10325, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8071c, 8071h of this title.

§ 8071e. Limitation on administrative costs

An eligible entity may use not more than 0.25 percent of the funds received under this subpart

for the administrative costs of carrying out its responsibilities under this subpart.

(Pub. L. 89–10, title X, § 10326, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8071d of this title.

§ 8071f. Audits and reports

(a) Financial record maintenance and audit

The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) Reports

(1) Grantee annual reports

Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

(2) Contents

Each such annual report shall include—

(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) of this section during the reporting period;

(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

(D) a listing and description of the charter schools served during the reporting period;

(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 8071c of this title; and

(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

(3) Secretarial report

The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

(Pub. L. 89–10, title X, § 10327, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59.)

§ 8071g. No full faith and credit for grantee obligations

No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

(Pub. L. 89–10, title X, § 10328, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60.)

§ 8071h. Recovery of funds

(a) In general

The Secretary, in accordance with chapter 37 of title 31, shall collect—

(1) all of the funds in a reserve account established by an eligible entity under section 8071d(a) of this title if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this subpart, that the entity has failed to make substantial progress in carrying out the purposes described in section 8071d(a) of this title; or

(2) all or a portion of the funds in a reserve account established by an eligible entity under section 8071d(a) of this title if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 8071d(a) of this title.

(b) Exercise of authority

The Secretary shall not exercise the authority provided in subsection (a) of this section to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 8071d(a) of this title.

(c) Procedures

The provisions of sections 451, 452, and 458 of the General Education Provisions Act [20 U.S.C. 1234, 1234a, 1234g] shall apply to the recovery of funds under subsection (a) of this section.

(d) Construction

This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

(Pub. L. 89–10, title X, § 10329, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (d), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the Act is classified generally to subchapter IV (§ 1234 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 8071i. Definitions

In this subpart:

(1) The term ''charter school'' has the meaning given such term in section 8066 of this title.

(2) The term ''eligible entity'' means—

(A) a public entity, such as a State or local governmental entity;

(B) a private nonprofit entity; or

(C) a consortium of entities described in subparagraphs (A) and (B).

(Pub. L. 89–10, title X, § 10330, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8071a of this title.

§ 8071j. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2001.

(Pub. L. 89–10, title X, § 10331, as added Pub. L. 106–554, § 1(a)(1) [title III, § 322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61.)

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

§ 8091. Support for arts education

(a) Findings

The Congress finds that—

(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

(2) the arts are important to excellent education and to effective school reform;

(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

(4) such transformation is best realized in the context of comprehensive, systemic education reform;

(5) demonstrated competency in the arts for American students is among the National Education Goals;

(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

(9) arts education should be an integral part of the elementary and secondary school curriculum.

(b) Purposes

The purposes of this subpart are to—

(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

(c) Eligible recipients

In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

(1) State educational agencies;

(2) local educational agencies;

(3) institutions of higher education;

(4) museums and other cultural institutions; and

(5) other public and private agencies, institutions, and organizations.

(d) Authorized activities

Funds under this subpart may be used for—

(1) research on arts education;

(2) the development of, and dissemination of information about, model arts education programs;

(3) the development of model arts education assessments based on high standards;

(4) the development and implementation of curriculum frameworks for arts education;

(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

(10) other activities that further the purposes of this subpart.

(e) Coordination

(1) In general

A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

(2) Special rule

In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum and Library Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

(f) Authorization

(1) In general

For the purpose of carrying out this subpart, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Special rule

If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then

such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d) of this section.

(Pub. L. 89–10, title X, § 10401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3830; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsecs. (d)(6), (e)(2). Pub. L. 104–208 substituted ''the Institute of Museum and Library Services'' for ''the Institute of Museum Services''.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

§ 8101. Findings and purpose

(a) Findings

The Congress finds:

(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

(7) The Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

(8) While all children benefit from instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school.

(b) Purpose

The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

(Pub. L. 89–10, title X, § 10411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3832.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(7), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 8102. Program authorized

(a) In general

The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 8103 of this title.

(b) Special requirements

(1) In general

The Secretary shall award grants under this subpart only to programs designed to—

(A) promote and enhance educational and cultural activities;

(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

(C) provide integration of community cultural resources into the regular curriculum and school day;

(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act [42 U.S.C. 9831 et seq.] and part H[1] of the Individuals with Disabilities Education Act;

(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher education and employment through educational programs and activities that utilize school resources;

(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

(ii) provide a model to replicate such services in other schools and communities.

(2) Partnership

An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum and Library Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary shall publish such criteria and procedures in the Federal Register.

(3) Coordination

Grants may only be awarded under this subpart to eligible entities that agree to coordi-

[1] See References in Text note below.

nate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

(4) Eligible entities

For purposes of this subpart, the term ''eligible entity'' means a partnership between—

(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 6314 of this title; and

(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

(ii) private for-profit entities with a history of training children and youth in the arts.

(5) Geographic distribution

In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

(6) Duration

Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

(7) Models

The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the director[2] of the Institute of Museum and Library Services, or their designees, shall submit successful models under this subchapter to the National Diffusion Network for review.

(c) Target population

To be eligible for a grant under this subpart, an eligible entity shall serve—

(1) students enrolled in schools participating in a schoolwide program under section 6314 of this title and the families of such students to the extent practicable;

(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

(3) any combination of in-school and out-of-school at-risk children and youth.

(Pub. L. 89–10, title X, § 10412, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3833; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(B)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(1)(E), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1)(E), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part H of the Act was classified generally to subchapter VIII (§ 1471 et seq.) of chapter 33 of this title prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(2), (7). Pub. L. 104–208 substituted ''Museum and Library Services'' for ''Museum Services'' in par. (2) and ''the director of the Institute of Museum and Library Services'' for ''the Director of the Institute of Museum Services'' in par. (7).

§ 8103. Authorized activities

(a) In general

Grants awarded under this subpart may be used—

(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

(5) to provide transportation necessary for participation in the program;

(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

(8) for stipends that allow local artists to work with at-risk children and youth in schools;

(9) for training individuals who are not trained to work with children and youth;

[2] So in original. Probably should be capitalized.

(10) for cultural programs that encourage the active participation of parents in the education of their children;

(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

(12) for equipment or supplies that the Secretary determines appropriate; and

(13) for evaluation, administration, and supervision.

(b) Planning grants

(1) Application

An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed $50,000. Such grants shall be for periods of not more than one year.

(2) Limit on planning grants

Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

(c) General provisions

(1) In general

Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the cultural entity or entities that will participate in the partnership;

(B) describe the target population to be served;

(C) describe the services to be provided;

(D) describe a plan for evaluating the success of the program;

(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

(G) describe the overall and operational goals of the program;

(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

(Pub. L. 89–10, title X, § 10413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3835.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8102, 8104 of this title.

§ 8104. Payments; amounts of award; cost share; limitations

(a) Payments

(1) In general

The Secretary shall pay to each eligible recipient having an application approved under section 8103(c) of this title the Federal share of the cost of the activities described in the application.

(2) Special rule

(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

(i) the National Endowment for the Humanities;

(ii) the National Endowment for the Arts; and

(iii) the Institute of Museum and Library Services.

(b) Cost share

(1) Federal share

The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

(2) Non-Federal share

The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

(c) Limitations

(1) Noninstructional services

Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 8103(a) of this title.

(2) Supplement and not supplant

Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

(3) Administrative costs

(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

(Pub. L. 89–10, title X, § 10414, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3836; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(C)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

AMENDMENTS

1996—Subsec. (a)(2)(B)(iii). Pub. L. 104–208 added cl. (iii) and struck out former cl. (iii) which read as follows: ''the Institute of Museum Services.''

§ 8105. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart, $45,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10415, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3837.)

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 8131. Inexpensive book distribution program for reading motivation

(a) Authorization

The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as ''the contractor'') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

(b) Requirements of contract

Any contract entered into under subsection (a) of this section shall—

(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

(A) low-income children, particularly in high-poverty areas;

(B) children at risk of school failure;

(C) children with disabilities;

(D) foster children;

(E) homeless children;

(F) migrant children;

(G) children without access to libraries;

(H) institutionalized or incarcerated children; and

(I) children whose parents are institutionalized or incarcerated;

(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(c) Restriction on payments

The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) "Federal share" defined

For the purpose of this section, the term ''Federal share'' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title X, § 10501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3837.)

PART F—CIVIC EDUCATION

§ 8141. Instruction on history and principles of democracy in the United States

(a) General authority

(1) Program established

(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

(B) Such program shall be known as ''We the People . . . The Citizen and the Constitution''.

(2) Educational activities

The program required by paragraph (1) shall—

(A) continue and expand the educational activities of the ''We the People . . . The Citizen and the Constitution'' program administered by the Center for Civic Education; and

(B) enhance student attainment of challenging content standards in civics and government.

(3) Contract or grant authorized

The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

(b) Program content

The education program authorized by this section shall provide—

(1) a course of instruction on the basic principles of our Nation's constitutional democ-

racy and the history of the Constitution and the Bill of Rights;

(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

(c) Availability of program

The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(d) Special rule

After the provisions of subsection (b) of this section have been implemented, funds provided under this section may be used for—

(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

(2) a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

(A) optional school and community simulated State legislative hearings;

(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

(C) participation by public and private middle schools in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 89–10, title X, § 10601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3838.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8143 of this title.

§ 8142. Instruction in civics, government, and the law

(a) Program established

The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

(2) attainment by the Nation of the third and the sixth National Education Goals.

(b) Authorized activities

Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

(1) the development and implementation of curricular programs that enhance student understanding of—

(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

(B) the role of law in our constitutional democracy, including activities to promote—

(i) legal literacy;

(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

(iii) respect for cultural diversity and acceptance of cultural differences; and

(C) the rights and responsibilities of citizenship;

(2) professional development for teachers, including preservice and inservice training;

(3) outside-the-classroom learning experiences for students, including community service activities;

(4) the active participation of community leaders, from the public and private sectors, in the schools; and

(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

(c) Applications, peer review and priority

(1) Submission of applications

A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) Peer review

(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

(B) Such individuals shall have experience with education programs in civics, government, and the law.

(3) Priority

In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

(d) Duration of grants and exception

(1) Duration

Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

(2) Exception

The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

(Pub. L. 89–10, title X, § 10602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3839.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8143 of this title.

§ 8143. Report; authorization of appropriations

(a) Report

The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

(b) Authorization of appropriations

(1) General

There are authorized to be appropriated to carry out this part $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) Allocation

Except as provided in paragraph (3), from the amount appropriated under subsection (a) of this section, the Secretary shall allocate—

(A) 40 percent of such amount to carry out section 8141 of this title; and

(B) 60 percent of such amount to carry out section 8142 of this title.

(3) Special rule

From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year 1995 and each succeeding fiscal year thereafter for the programs under sections 8141[1] and 8142[1] of this title not less than the amount made available for fiscal year 1994 to carry out such programs under sections 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding October 20, 1994).

(Pub. L. 89–10, title X, § 10603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3840.)

REFERENCES IN TEXT

Sections 8141 and 8142 of this title, referred to in subsec. (b)(3), was in the original ''sections 16101 and 16102'' meaning sections 16101 and 16102 of Pub. L. 89–10, which has been translated as reading sections 10601 and 10602 of Pub. L. 89–10 to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 16101 or 16102, and funds appropriated under subsec. (b)(1) of this section are to carry out this part which is comprised of sections 8141 and 8142 of this title.

Sections 4609 and 1562 of this Act (as such sections were in effect on the day preceding October 20, 1994), referred to in subsec. (b)(3), means sections 4609 and 1562 of Pub. L. 89–10 which were classified to sections 3156b and 2962, respectively, of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 8161. Findings

The Congress finds as follows:

(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

(Pub. L. 89–10, title X, § 10701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6978 of this title.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8171. Establishment

(a) General authority

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

(b) Use of funds

Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10711, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8182, 8202 of this title.

§ 8172. Applications

(a) Application required

No grant under this subpart may be made except upon an application at such time, in such

[1] See References in Text note below.

manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

(2) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including student[1] with disabilities, ethnic minority students, and gifted and talented students; and

(3) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10712, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3841.)

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8181. Establishment

(a) General authority

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

(b) Use of funds

Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10721, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

§ 8182. Applications

(a) Application required

No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each such application shall contain provisions to assure—

(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 8171(a) of this title;

(2) that not more than one teacher in each school participating in the programs provided for in section 8171(a) of this title may receive a fellowship in any fiscal year; and

(3) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10722, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8202 of this title.

§ 8191. Establishment

(a) General authority

(1) In general

The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

(2) "Older American" defined

For the purpose of this subpart, the term ''older American'' means an individual who has attained 55 years of age.

(b) Use of funds

Grants under this subpart shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

(Pub. L. 89–10, title X, § 10731, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3842.)

§ 8192. Applications

(a) Application required

No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Except such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents;

(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

(3) that activities permitted by subsection (a) of this section are fully described; and

[1] So in original. Probably should be ''students''.

(4) the proper disbursement of the funds received under this subpart.

(Pub. L. 89–10, title X, § 10732, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

SUBPART 4—GENERAL PROVISIONS

§ 8201. Administrative provisions

(a) General rule

Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

(b) Audit rule

The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

(Pub. L. 89–10, title X, § 10741, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

§ 8202. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,400,000 for fiscal year 1995 and such sums as may be necessary of[1] each of the four succeeding fiscal years.

(b) Special rule

Of the funds appropriated pursuant to subsection (a) of this section, not more than 30 percent may be used for teachers associated with students participating in the programs described in section 8171(a) of this title.

(Pub. L. 89–10, title X, § 10742, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3843.)

PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

§§ 8221 to 8224. Repealed. Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section 8221, Pub. L. 89–10, title X, § 10801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, related to findings and purposes.

Section 8222, Pub. L. 89–10, title X, § 10802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, related to grant authorization.

Section 8223, Pub. L. 89–10, title X, § 10803, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, prohibited use of grant funds for construction.

Section 8224, Pub. L. 89–10, title X, § 10804, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, related to authorization of appropriations.

PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

§ 8241. Short title

This part may be cited as the "21st Century Community Learning Centers Act".

(Pub. L. 89–10, title X, § 10901, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

[1] So in original. Probably should be "for".

§ 8242. Findings

The Congress finds that—

(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

(Pub. L. 89–10, title X, § 10902, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844.)

§ 8243. Program authorization

(a) Grants by Secretary

The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

(b) Equitable distribution

In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

(c) Grant period

The Secretary shall award grants under this part for a period not to exceed 3 years.

(d) Amount

The Secretary shall not award a grant under this part in any fiscal year in an amount less than $35,000.

(Pub. L. 89–10, title X, § 10903, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845.)

§ 8244. Application required

(a) Application

To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

(3) a description of the proposed project, including—

(A) a description of the mechanism that will be used to disseminate information in a manner that is understandable and accessible to the community;

(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

(i) the rules and regulations applicable to building and equipment use; and

(ii) supervision guidelines.

(b) Priority

The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

(Pub. L. 89–10, title X, § 10904, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3845.)

§ 8245. Uses of funds

Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

(1) Literacy education programs.

(2) Senior citizen programs.

(3) Children's day care services.

(4) Integrated education, health, social service, recreational, or cultural programs.

(5) Summer and weekend school programs in conjunction with recreation programs.

(6) Nutrition and health programs.

(7) Expanded library service hours to serve community needs.

(8) Telecommunications and technology education programs for individuals of all ages.

(9) Parenting skills education programs.

(10) Support and training for child day care providers.

(11) Employment counseling, training, and placement.

(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

(13) Services for individuals with disabilities.

(Pub. L. 89–10, title X, § 10905, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

§ 8246. "Community learning center" defined

For the purpose of this part, the term ''community learning center'' means an entity within a public elementary or secondary school building that—

(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

(Pub. L. 89–10, title X, § 10906, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

§ 8247. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title X, § 10907, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3846.)

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

§ 8271. Authorization of appropriations

(a) Demonstration grants

(1) In general

There are authorized to be appropriated $125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 of this part (other than section 8295 of this title).

(2) Reservation for subpart 1

The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1 of this part.

(3) Reservation for subpart 2

The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 of this part (other than section 8295 of this title).

(b) Higher education grants

There are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 8295 of this title.

(c) Federal funds to supplement not supplant non-Federal funds

An eligible local educational agency may use funds received under this part only to supple-

ment and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

(Pub. L. 89–10, title X, § 10951, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8297 of this title.

§ 8272. Definitions

Except as otherwise provided, for the purposes of this part:

(1) Central city

The term ''central city'' has the same meaning used by the Bureau of the Census.

(2) Metropolitan statistical area

The term ''metropolitan statistical area'' has the same meaning used by the Bureau of the Census.

(3) Poverty level

The term ''poverty level'' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

(4) Rural eligible local educational agency

The term ''rural eligible local educational agency'' means a local educational agency—

(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of subchapter I of this chapter; and

(ii) which is not in a metropolitan statistical area; or

(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

(5) Urban eligible local educational agency

The term ''urban eligible local educational agency'' means a local educational agency that—

(A) serves the largest central city in a State;

(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

(Pub. L. 89–10, title X, § 10952, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3847.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8297 of this title.

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8271 of this title.

§ 8281. Findings

The Congress finds that—

(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the ''haves and the have-nots'' in society;

(4) the cost to America's businesses to provide remedial education to high school graduates is approximately $21,000,000,000 per year;

(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

(6) urban schools enroll a disproportionately large share of the Nation's poor and ''at-risk'' youth;

(7) urban schools enroll approximately one-third of the Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

(8) nearly 20 percent of the Nation's limited-English-proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

(13) declining numbers of urban minority high school graduates are pursuing post-secondary educational opportunities;

(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(17) Federal and State funding of urban public schools has not adequately reflected need; and

(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

(Pub. L. 89–10, title X, § 10961, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8283 of this title.

§ 8282. Purpose

It is the purpose of this subpart to provide financial assistance to—

(1) assist urban public schools in meeting the National Education Goals;

(2) improve the educational and social well-being of urban public school children;

(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

(6) encourage community, parental, and business collaboration in the improvement of urban schools.

(Pub. L. 89–10, title X, § 10962, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849.)

§ 8283. Urban school grants

(a) Authority

The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

(b) Authorized activities

Funds under this section may be used to—

(1) increase the academic achievement of urban public school children to at least the national average, such as—

(A) effective public schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

(D) supplementary academic instruction;

(E) efforts to improve problem-solving and higher-order thinking skills;

(F) programs to increase student motivation for learning; and

(G) efforts to lengthen the school day or school year, or to reduce class sizes;

(2) ensure the readiness of all urban public school children for school, such as—

(A) full workday, full calendar-year comprehensive early childhood development programs;

(B) parenting classes and parent involvement activities;

(C) activities designed to coordinate prekindergarten and child care programs;

(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

(E) upgrading the qualifications of early childhood education staff and standards for programs;

(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

(3) increase the graduation rates of urban public school students to at least the national average, such as—

(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

(C) development of systemwide policies and practices that encourage students to stay in school;

(D) efforts to provide individualized student support, such as mentoring programs;

(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

(F) programs to increase student attendance; and

(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

(D) efforts to increase voter registration among eligible public secondary school students;

(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

(5) recruit and retain qualified teachers, such as—

(A) school-based management projects and activities;

(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

(F) activities specifically designed to increase the number of minority teachers in urban schools;

(G) incentives for teachers to work in inner-city public schools; and

(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

(A) activities designed to improve the self-esteem and self-worth of urban public school students;

(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

(F) efforts to enhance health education and nutrition education; and

(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

(E) efforts to acquire and improve access to educational technology;

(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

(c) Applications

(1) In general

An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, consistent with this section.

(2) Duration

An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

(d) Payments

The Secretary shall make an award only to urban eligible local educational agencies that—

(1) comply with the provisions of section 10966;[1] and

(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 8281[2] of this title shows progress toward meeting National Education Goals.

(e) Administrative costs

Not more than five percent of any award made under this subpart may be used for administrative costs.

(Pub. L. 89–10, title X, § 10963, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3849.)

REFERENCES IN TEXT

Section 10966, referred to in subsec. (d)(2), meaning section 10966 of Pub. L. 89–10, could not be translated because Pub. L. 89–10 does not contain a section 10966.

§ 8284. Special rules

(a) Special consideration

In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

(1) low achievement;

(2) high poverty; and

(3) racial isolation.

(b) Flexibility

Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegrega-

[1] See References in Text note below.

[2] So in original. Section 8281 relates to findings, not to submission of data.

tion, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

(Pub. L. 89–10, title X, § 10964, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852.)

SUBPART 2—RURAL EDUCATION INITIATIVE

CODIFICATION

Subpart 2 of part J of title X of the Elementary and Secondary Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–10, title X, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852. Subpart 2 is shown herein, however, as having been added by Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, without reference to Pub. L. 103–382 because of the extensive revision of subpart 2 by Pub. L. 106–554.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 8271 of this title.

§ 8291. Purpose

It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

(1) lack the personnel and resources needed to compete for Federal competitive grants; and

(2) receive formula allocations in amounts too small to be effective in meeting their intended purposes.

(Pub. L. 89–10, title X, § 10972, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89.)

PRIOR PROVISIONS

A prior section 8291, Pub. L. 89–10, title X, § 10971, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3852, set out findings, prior to the general amendment of this subpart by Pub. L. 106–554.

A prior section 10972 of Pub. L. 89–10 was classified to section 8292 of this title, prior to the general amendment of this subpart by Pub. L. 106–554.

SHORT TITLE

For short title of this subpart as the ''Rural Education Achievement Program'', see section 10971 of Pub. L. 89–10, as added by Pub. L. 106–554, set out as a note under section 6301 of this title.

§ 8292. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $62,500,000 for fiscal year 2001.

(Pub. L. 89–10, title X, § 10973, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89.)

PRIOR PROVISIONS

A prior section 8292, Pub. L. 89–10, title X, § 10972, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3853, related to the purpose of this subpart, prior to the general amendment of this subpart by Pub. L. 106–554.

A prior section 10973 of Pub. L. 89–10 was classified to section 8293 of this title, prior to the general amendment of this subpart by Pub. L. 106–554.

§ 8293. Formula grant program authorized

(a) Alternative uses

(1) In general

Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to carry out local activities authorized in part A of subchapter I of this chapter, section 6650(b) of this title, section 6844 of this title, or section 7116 of this title.

(2) Notification

An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

(b) Eligibility

A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) of this section if—

(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary of Education.

(c) Applicable funding

In this section, the term ''applicable funding'' means funds provided under each of subchapters II, IV, and VI of this chapter, except for funds made available under section 321 of the Department of Education Appropriations Act, 2001.

(d) Disbursal

Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

(e) Supplement not supplant

Funds made available under this section shall be used to supplement and not supplant any other State or local education funds.

(f) Special rule

References in Federal law to funds for the provisions of law set forth in subsection (c) of this section may be considered to be references to funds for this section.

(g) Construction

Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this subpart.

(Pub. L. 89–10, title X, § 10974, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89.)

REFERENCES IN TEXT

Section 321 of the Department of Education Appropriations Act, 2001, referred to in subsec. (c), is section

§ 1(a)(1) [title III, § 321] of Pub. L 106–554, Dec. 21, 2000, 114 Stat. 2763, 2763A–50, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 8293, Pub. L. 89–10, title X, § 10973, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3854, authorized rural school grants, prior to the general amendment of this subpart by Pub. L. 106–554.

A prior section 10974 of Pub. L. 89–10 was classified to section 8294 of this title, prior to the general amendment of this subpart by Pub. L. 106–554.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8294, 8295 of this title.

§ 8294. Competitive grant program authorized

(a) In general

The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out local activities authorized in part A of subchapter I of this chapter, section 6650(b) of this title, section 6844 of this title, or section 7116 of this title.

(b) Eligibility

A local educational agency shall be eligible to receive a grant under this section if—

(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary of Education.

(c) Amount

(1) In general

The Secretary shall award a grant to a local educational agency under this section for a fiscal year in an amount equal to the amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 8293(c) of this title for the fiscal year.

(2) Determination

The amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students that are in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the amount may not exceed $60,000.

(3) Census determination

(A) In general

Each local educational agency desiring a grant under this section shall determine for each year the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency during the period beginning or[1] the first day of classes and ending on December 1.

(B) Submission

Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

(4) Penalty

If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under paragraph (3).

(d) Disbursal

The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

(e) Supplement not supplant

Funds made available under this section shall be used to supplement and not supplant any other State or local education funds.

(Pub. L. 89–10, title X, § 10975, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–90.)

PRIOR PROVISIONS

A prior section 8294, Pub. L. 89–10, title X, § 10974, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3854, related to fund usage, prior to the general amendment of this subpart by Pub. L. 106–554.

A prior section 10975 of Pub. L. 89–10 was classified to section 8295 of this title, prior to the general amendment of this subpart by Pub. L. 106–554.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8295 of this title.

§ 8295. Accountability

(a) Academic achievement

(1) In general

Each local educational agency that uses or receives funds under section 8293 or 8294 of this title for a fiscal year shall—

(A) administer an assessment that is used statewide and is consistent with the assessment described in section 6311(b) of this title, to assess the academic achievement of students in the schools served by the local educational agency; or

(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

(2) Special rule

Each local educational agency that uses or receives funds under section 8293 or 8294 of this title shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under such section.

[1] So in original. Probably should be ''on''.

(b) State educational agency determination regarding continuing participation

Each State educational agency that receives funding under the provisions of law described in section 8293(c) of this title shall—

(1) after the third year that a local educational agency in the State participates in a program authorized under section 8293 or 8294 of this title and on the basis of the results of the assessments or tests described in subsection (a) of this section, determine whether the students served by the local educational agency participating in the program performed better on the assessments or tests after the third year of the participation than the students performed on the assessments or tests after the first year of the participation;

(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program, for a period of 3 years from the date of the determination.

(Pub. L. 89–10, title X, § 10976, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–91.)

PRIOR PROVISIONS

A prior section 8295, Pub. L. 89–10, title X, § 10975, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3857, related to higher education grants, prior to the general amendment of this subpart by Pub. L. 106–554.

§ 8296. Ratable reductions in case of insufficient appropriations

(a) In general

If the amount appropriated for any fiscal year and made available for grants under this subpart is insufficient to pay the full amount for which all agencies are eligible under this subpart, the Secretary shall ratably reduce each such amount.

(b) Additional amounts

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subsection (a) of this section shall be increased on the same basis as such payments were reduced.

(Pub. L. 89–10, title X, § 10977, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92.)

§ 8297. Applicability

Sections 8271 and 8272 of this title shall not apply to this subpart.

(Pub. L. 89–10, title X, § 10978, as added Pub. L. 106–554, § 1(a)(1) [title IX, § 901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92.)

SUBPART 3—WHITE HOUSE CONFERENCES

§ 8311. White House Conference on Urban Education

(a) Authorization to call Conference

(1) In general

The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the ''Conference'') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

(2) Purpose

The purpose of the Conference shall be to—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

(C) conduct the initial planning for a permanent national advisory commission on urban education.

(b) Composition of Conference

(1) In general

The Conference shall be comprised of 12 individuals, including—

(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

(B) representatives of the Congress, the Department of Education, and other Federal agencies;

(C) State elected officials and representatives from State educational agencies; and

(D) individuals with special knowledge of and expertise in urban education.

(2) Selection

The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

(3) Representation

In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

(c) Report

(1) In general

Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not

later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) Publication and distribution

The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

(Pub. L. 89–10, title X, § 10981, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3857.)

§ 8312. White House Conference on Rural Education

(a) Authorization to call Conference

(1) In general

The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the ''Conference'').

(2) Date

The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

(3) Purpose

The purposes of the Conference shall be to—

(A) develop recommendations and strategies for the improvement of rural public education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

(C) conduct the initial planning for a permanent national commission on rural public education.

(b) Composition of Conference

(1) In general

The Conference shall be comprised of—

(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

(B) representatives of the Congress, the Department, and other Federal agencies;

(C) State elected officials and representatives from State educational agencies;

(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

(E) individuals with special knowledge of, and expertise in, rural business.

(2) Selection

The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

(3) Representation

In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

(c) Report

(1) In general

Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) Publication and distribution

The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

(Pub. L. 89–10, title X, § 10982, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3858.)

PART K—NATIONAL WRITING PROJECT

§ 8331. Findings

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's

schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year over 100,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year in-service programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve United States teachers in United States dependent and independent schools;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

(18) independent evaluation studies have found the National Writing Project to be highly cost effective compared to other professional development programs for teachers; and

(19) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

(Pub. L. 89–10, title X, § 10991, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3859.)

§ 8332. National Writing Project

(a) Authorization

The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the ''grantee''), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance;

(3) to coordinate activities assisted under this section with activities assisted under subchapter II of this chapter; and

(4) to pay the Federal share of the cost of such programs.

(b) Requirements of grant

The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as ''contractors'') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) Teacher training programs

The teacher training programs authorized in subsection (a) of this section shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) Federal share

(1) In general

Except as provided in paragraph (2) or (3) and for purposes of subsection (a) of this section, the term ''Federal share'' means, with respect to the costs of teacher training programs authorized in subsection (a) of this sec-

tion, 50 percent of such costs to the contractor.

(2) Waiver

The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) of this section determines, on the basis of financial need, that such waiver is necessary.

(3) Maximum

The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) of this section may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

(e) Classroom teacher grants

(1) In general

The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to pay the Federal share of the cost of enabling such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) Supplement and not supplant

Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) Maximum grant amount

Each grant awarded pursuant to this subsection shall not exceed $2,000.

(4) Federal share

For the purpose of this subsection the term ''Federal share'' means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher.

(f) National Advisory Board

(1) Establishment

The National Writing Project shall establish and operate a National Advisory Board.

(2) Composition

The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) Duties

The National Advisory Board established pursuant to paragraph (1) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) Evaluation

(1) In general

The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this chapter in accordance with section 8941 of this title. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(2) Funding limitation

The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) of this section for fiscal year 1994 and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

(h) Application review

(1) Review Board

The National Writing Project shall establish and operate a National Review Board that shall consist of—

(A) leaders in the field of research in writing; and

(B) such other individuals as the National Writing Project deems necessary.

(2) Duties

The National Review Board shall—

(A) review all applications for assistance under this subsection; and

(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

(i) Authorization of appropriations

There are authorized to be appropriated for the grant to the National Writing Project, $4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out the provisions of this section.

(Pub. L. 89–10, title X, § 10992, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3861.)

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

PART L—PHYSICAL EDUCATION FOR PROGRESS

PRIOR PROVISIONS

A prior part L of this subchapter, consisting of section 8351, related to extended time for learning and longer school year, prior to repeal by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

§ 8351. Purpose

The purpose of this part is to award grants and contracts to local educational agencies to enable the local educational agencies to initiate, expand and improve physical education programs for all kindergarten through 12th grade students.

(Pub. L. 89–10, title X, § 10999B, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76.)

PRIOR PROVISIONS

A prior section 8351, Pub. L. 89–10, title X, § 10993, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3863, related to extended time for learning and longer school year, prior to repeal by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

§ 8352. Findings

Congress makes the following findings:

(1) Physical education is essential to the development of growing children.

(2) Physical education helps improve the overall health of children by improving their cardiovascular endurance, muscular strength and power, and flexibility, and by enhancing weight regulation, bone development, posture, skillful moving, active lifestyle habits, and constructive use of leisure time.

(3) Physical education helps improve the self esteem, interpersonal relationships, responsible behavior, and independence of children.

(4) Children who participate in high quality daily physical education programs tend to be more healthy and physically fit.

(5) The percentage of young people who are overweight has more than doubled in the 30 years preceding 1999.

(6) Low levels of activity contribute to the high prevalence of obesity among children in the United States.

(7) Obesity related diseases cost the United States economy more than $100,000,000,000 every year.

(8) Inactivity and poor diet cause at least 300,000 deaths a year in the United States.

(9) Physically fit adults have significantly reduced risk factors for heart attacks and stroke.

(10) Children are not as active as they should be and fewer than one in four children get 20 minutes of vigorous activity every day of the week.

(11) The Surgeon General's 1996 Report on Physical Activity and Health, and the Centers for Disease Control and Prevention, recommend daily physical education for all students in kindergarten through grade 12.

(12) Twelve years after Congress passed House Concurrent Resolution 97, 100th Congress, agreed to December 11, 1987, encouraging State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12, little progress has been made.

(13) Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. It is the unique role of quality physical education programs to develop the health-related fitness, physical competence, and cognitive understanding about physical activity for all students so that the students can adopt healthy and physically active lifestyles.

(Pub. L. 89–10, title X, § 10999C, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77.)

REFERENCES IN TEXT

House Concurrent Resolution 97, 100th Congress, referred to in par. (12), is H. Con. Res. 97, Dec. 12, 1987, 101 Stat. 2014, which is not classified to the Code.

§ 8353. Program authorized

The Secretary is authorized to award grants to, and enter into contracts with, local educational agencies to pay the Federal share of the costs of initiating, expanding, and improving physical education programs for kindergarten through grade 12 students by—

(1) providing equipment and support to enable students to actively participate in physical education activities; and

(2) providing funds for staff and teacher training and education.

(Pub. L. 89–10, title X, § 10999D, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77.)

§ 8354. Applications; program elements

(a) Applications

Each local educational agency desiring a grant or contract under this part shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in the schools served by the agency in order to make progress toward meeting State standards for physical education.

(b) Program elements

A physical education program described in any application submitted under subsection (a) of this section may provide—

(1) fitness education and assessment to help children understand, improve, or maintain their physical well-being;

(2) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every child;

(3) development of cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle;

(4) opportunities to develop positive social and cooperative skills through physical activity participation;

(5) instruction in healthy eating habits and good nutrition; and

(6) teachers of physical education the opportunity for professional development to stay abreast of the latest research, issues, and trends in the field of physical education.

(c) Special rule

For the purpose of this part, extracurricular activities such as team sports and Reserve Officers' Training Corps (ROTC) program activities

shall not be considered as part of the curriculum of a physical education program assisted under this part.

(Pub. L. 89–10, title X, § 10999E, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78.)

§ 8355. Proportionality

The Secretary shall ensure that grants awarded and contracts entered into under this part shall be equitably distributed between local educational agencies serving urban and rural areas, and between local educational agencies serving large and small numbers of students.

(Pub. L. 89–10, title X, § 10999F, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78.)

§ 8356. Private school students and home-schooled students

An application for funds under this part may provide for the participation, in the activities funded under this part, of—

(1) home-schooled children, and their parents and teachers; or

(2) children enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers.

(Pub. L. 89–10, title X, § 10999G, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78.)

§ 8357. Report required for continued funding

As a condition to continue to receive grant or contract funding after the first year of a multiyear grant or contract under this part, the administrator of the grant or contract for the local educational agency shall submit to the Secretary an annual report that describes the activities conducted during the preceding year and demonstrates that progress has been made toward meeting State standards for physical education.

(Pub. L. 89–10, title X, § 10999H, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78.)

§ 8358. Report to Congress

The Secretary shall submit a report to Congress not later than June 1, 2003, that describes the programs assisted under this part, documents the success of such programs in improving physical fitness, and makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this part.

(Pub. L. 89–10, title X, § 10999I, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78.)

§ 8359. Administrative costs

Not more than 5 percent of the grant or contract funds made available to a local educational agency under this part for any fiscal year may be used for administrative costs.

(Pub. L. 89–10, title X, § 10999J, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79.)

§ 8360. Federal share; supplement not supplant

(a) Federal share

The Federal share under this part may not exceed—

(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

(2) 75 percent of such cost for the second and each subsequent such year.

(b) Supplement not supplant

Funds made available under this part shall be used to supplement and not supplant other Federal, State and local funds available for physical education activities.

(Pub. L. 89–10, title X, § 10999K, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79.)

§ 8361. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 2001, $70,000,000 for fiscal year 2002, and $100,000,000 for each of the fiscal years 2003 through 2005, to carry out this part. Such funds shall remain available until expended.

(Pub. L. 89–10, title X, § 10999L, as added Pub. L. 106–554, § 1(a)(1) [title VII, § 701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79.)

PART M—TERRITORIAL ASSISTANCE

§ 8371. Repealed. Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section, Pub. L. 89–10, title X, § 10995, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3867, related to general assistance to improve public education in the Virgin Islands.

SUBCHAPTER XI—COORDINATED SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1413, 8826 of this title.

§ 8401. Findings and purpose

(a) Findings

The Congress finds the following:

(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can

fully participate in the learning experiences offered children in school.

(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often trained in separate disciplines that provide little support for the coordination of services.

(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

(b) Purpose of coordinating services

The purpose of this subchapter is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

(Pub. L. 89–10, title XI, § 11001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3867.)

§ 8402. Definitions

For the purpose of this subchapter—

(1) the term ''coordinated services project'' means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

(2) the term ''eligible entity'' means a local educational agency, school, or a consortium of schools.

(Pub. L. 89–10, title XI, § 11002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

§ 8403. Authority

In order to use funds made available under section 8826(b) of this title for the development, or the implementation or expansion, of a coordinated service project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 8404 of this title.

(Pub. L. 89–10, title XI, § 11003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

§ 8404. Project development and implementation

(a) Applications

Each eligible entity desiring to use funds made available under section 8826(b) of this title shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(b) Project development plan

The application for the development of the coordinated services project under this subchapter shall cover a period of not more than 1 year and shall include a plan that—

(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

(c) Project implementation or expansion plan

The application for the implementation or expansion of a coordinated services project under this subchapter shall contain a plan that includes—

(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

(2) a description of the entities operating the coordinated services project;

(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

(4) a description of how the success of the coordinated services project will be evaluated;

(5) a description of the training to be provided to teachers and appropriate personnel;

(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

(Pub. L. 89–10, title XI, § 11004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3868.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8403, 8405 of this title.

§ 8405. Uses of funds

(a) Uses

(1) In general

Funds made available under section 8826(b) of this title may be used for planning for, or the implementation or expansion of, activities which include—

(A) hiring a services coordinator;

(B) making minor renovations to existing buildings;

(C) purchasing basic operating equipment;

(D) improving communications and information-sharing among entities participating in the coordinated services project;

(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

(F) conducting the needs assessment required in section 8404(b)(1) of this title.

(2) Prohibition

Funds made available under section 8826(b) of this title shall not be used for the direct provision of any health or health-related services.

(b) Federal funds to supplement, not supplant, non-Federal funds

An eligible entity shall use funds received under this subchapter only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for coordinated services, and not to supplant such funds.

(Pub. L. 89–10, title XI, § 11005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3869.)

§ 8406. Continuing authority

The Secretary shall prohibit an eligible entity from using funds made available under section 8826(b) of this title if the Secretary determines that the coordinated services project assisted under this subchapter is not achieving effective coordination after two years of implementation of such project.

(Pub. L. 89–10, title XI, § 11006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8407. Federal agency coordination

(a) Agency coordination

The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

(b) Report to Congress

Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than two years after October 20, 1994, based on the review required under subsection (a) of this section recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this chapter and other Acts to address such barriers.

(Pub. L. 89–10, title XI, § 11007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

§ 8501. Short title

This subchapter may be cited as the ''Education Infrastructure Act of 1994''.

(Pub. L. 89–10, title XII, § 12001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8502. Findings

The Congress finds the following:

(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

(2) Almost one-third of such buildings were built prior to World War II.

(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

(Pub. L. 89–10, title XII, § 12002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3870.)

§ 8503. Purpose

The purpose of this subchapter is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

(Pub. L. 89–10, title XII, § 12003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

§ 8504. Improvement of public elementary and secondary education facilities program authorized

(a) Program authority

(1) In general

From amounts appropriated under section 8513 of this title for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 8505 of this title to carry out the authorized activities described in section 8507 of this title.

(2) Special rule

The Secretary may reserve not more than 1 percent of the amount appropriated under section 8513 of this title to provide assistance to Indian schools in accordance with this subchapter.

(b) Award categories

(1)[1] In general

From the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall award grants to eligible local edu-

[1] So in original. No par. (2) has been enacted.

cational agencies in each of the following categories:

(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

(F) Such agencies in which such number is 50,000 or greater.

(c) Maximum award amounts

The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1) of this section.

(Pub. L. 89–10, title XII, § 12004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

§ 8505. Award of grants

(a) Criteria

The Secretary shall award grants under this subchapter on the basis of—

(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of subchapter I of this chapter;

(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

(3) the threat of the condition of the physical plant poses to the safety and well-being of students;

(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

(5) the age of the facility to be renovated or replaced; and

(6) such other criteria as the Secretary may prescribe by regulation.

(b) Allocation among categories

The Secretary shall allocate funds under this subchapter among each of the categories described in paragraph (1)[1] on such basis as the Secretary determines is appropriate, including—

(1) the relative numbers or percentages of students counted under subpart 2 of part A of subchapter I of this chapter; and

(2) the relative costs of carrying out activities under this subchapter in eligible local educational agencies in each such category.

(c) Frequency of awards

No local educational agency may receive more than one grant under this subchapter in any five-year period.

(d) Special rule

The Secretary shall only award grants under this subchapter if the Secretary determines that sufficient funds will be provided under this subchapter or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

(Pub. L. 89–10, title XII, § 12005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3871.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8504 of this title.

§ 8506. Applications

(a) Applications required

Each eligible local educational agency desiring to receive a grant under this subchapter shall submit an application to the Secretary.

(b) Application contents

Each application described in subsection (a) of this section shall contain—

(1) an assurance that the application was developed in consultation with parents and classroom teachers;

(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this subchapter, including the priority for the repair of the deficiency;

(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this subchapter;

(4) a description of the improvement to be supported with funds provided under this subchapter;

(5) a cost estimate of the proposed improvement;

(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this subchapter;

(7) a description of how activities supported with funds provided under this subchapter will promote energy conservation; and

(8) such other information and assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title XII, § 12006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8512 of this title.

§ 8507. Authorized activities

(a) In general

Each eligible local educational agency receiving a grant under this subchapter shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

(b) Particular activities

Subject to subsection (a) of this section, each eligible local educational agency receiving a grant under this subchapter may use the grant funds to meet the requirements of section 794 of title 29 and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

[1] So in original. Probably should be "paragraph (1) of section 8504 (b) of this title".

(Pub. L. 89–10, title XII, § 12007, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3872.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8504 of this title.

§ 8508. General provisions

(a) Budget and accounting

In the performance of, and with respect to, the functions, powers, and duties under this subchapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Use of funds

Funds made available to the Secretary pursuant to the provisions of this subchapter shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this subchapter, and all funds available for carrying out the functions of the Secretary under this subchapter (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) Legal powers

In the performance of, and with respect to, the functions, powers, and duties under this subchapter, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this subchapter;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this subchapter;[1]

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held; and

(7) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this subchapter will be achieved.

(d) Contracts for supplies or services

Section 5 of title 41 shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subchapter[1] if the amount of such contract does not exceed $1,000.

(e) Applicability of chapter 91 of title 31

The provisions of section 9107(a) of title 31 which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this subchapter.

(Pub. L. 89–10, title XII, § 12008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3873.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(3), was in the original ''this part'' and was translated as reading ''this title'', meaning title XII (§§ 12001–12013) of Pub. L. 89–10, to reflect the probable intent of Congress, because title XII of Pub. L. 89–10 does not contain parts.

This subchapter, referred to in subsec. (d), was in the original ''this subtitle'' and was translated as reading ''this title'', meaning title XII (§§ 12001–12013) of Pub. L. 89–10, to reflect the probable intent of Congress, because title XII of Pub. L. 89–10 does not contain subtitles.

§ 8509. Fair wages

All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this subchapter, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of[1] No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 276c[2] of title 40.

(Pub. L. 89–10, title XII, § 12009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874.)

[1] See References in Text note below.

[1] So in original. The word ''of'' probably should not appear.

[2] See References in Text note below.

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization plan No. 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 276c of title 40, referred to in text, was in the original ''section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948)'' and was translated as if it were a reference to section 2 of the Act of June 13, 1934, to reflect the probable intent of Congress.

§ 8510. Requirements

(a) Special rules

(1) Maintenance of effort

An eligible local educational agency may receive a grant under this subchapter for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

(2) Supplement not supplant

An eligible local educational agency shall use funds received under this subchapter only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

(b) General limitations

(1) Real property

No part of any grant funds under this subchapter shall be used for the acquisition of any interest in real property.

(2) Maintenance

Nothing in this subchapter shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this subchapter.

(3) Environmental safeguards

All projects carried out with Federal funds provided under this subchapter shall comply with all relevant Federal, State, and local environmental laws and regulations.

(4) Athletic and similar facilities

No funds received under this subchapter shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(Pub. L. 89–10, title XII, § 12010, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3874.)

§ 8511. Federal assessment

The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 8513[1] of this title—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels;

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds provided under this subchapter; and

(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

(Pub. L. 89–10, title XII, § 12011, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

REFERENCES IN TEXT

Section 8513 of this title, referred to in text, was in the original ''section 15013'', meaning section 15013 of Pub. L. 89–10, which was translated as reading section 12013 of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 15013, and section 12013 authorizes appropriations to carry out this subchapter.

§ 8512. Definitions

For the purpose of this subchapter—

(1) the term ''construction'' means the alteration or renovation of a building, structure, or facility, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

(2) the term ''school'' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students; and

(3) the term ''eligible local educational agency'' means a local educational agency in which—

(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of subchapter I of this chapter; or

(B) the United States owns Federal property described in section 7713(5)[1] of this title, that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

(C) demonstrates in the application submitted under section 8506 of this title that

[1] See References in Text note below.

[1] See References in Text note below.

such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

(Pub. L. 89–10, title XII, § 12012, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

REFERENCES IN TEXT

Section 7713(5) of this title, referred to in par. (3)(B), was in the original ''section 8015(5)'', meaning section 8015(5) of Pub. L. 89–10, which was translated as reading section 8013(5) of that Act to reflect the probable intent of Congress, because Pub. L. 89–10 does not contain a section 8015, and section 8013(5) describes Federal property owned by the United States.

§ 8513. Authorization

There are authorized to be appropriated to carry out this subchapter $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XII, § 12013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3875.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8504, 8511 of this title.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6212 of this title.

§ 8601. Findings

The Congress finds that—

(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this chapter;

(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

(3) States, local educational agencies, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this chapter to provide such students with opportunities to learn to[1] challenging State content standards and challenging State student performance standards;

(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this chapter with State and local programs and other education reform efforts;

(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this chapter;

(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

(8) technical assistance in support of programs under this chapter should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

(Pub. L. 89–10, title XIII, § 13001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in par. (2), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

§ 8602. Purpose

The purpose of this subchapter is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this chapter technical assistance in—

(1) administering and implementing programs under this chapter;

(2) implementing school reform programs in a manner that improves teaching and learning for all students;

(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

(Pub. L. 89–10, title XIII, § 13002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876.)

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6317, 6318, 7453, 7455, 8651 of this title.

[1] So in original. The word ''to'' probably should not appear.

§ 8621. Program authorized

(a) Comprehensive regional assistance centers

(1) In general

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, public or private nonprofit entities or consortia of such entities in order to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under this chapter, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under this chapter.

(2) Consideration

In establishing comprehensive regional assistance centers and allocating resources among the centers, the Secretary shall consider—

(A) the geographic distribution of students assisted under subchapter I of this chapter;

(B) the geographic and linguistic distribution of students of limited-English proficiency;

(C) the geographic distribution of Indian students;

(D) the special needs of students living in urban and rural areas; and

(E) the special needs of States and outlying areas in geographic isolation.

(3) Special rule

The Secretary shall establish 1 comprehensive regional assistance center under this section in Hawaii.

(b) Service to Indians and Alaska Natives

The Secretary shall ensure that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students shall—

(1) be awarded to a consortium which includes a tribally controlled community college or other Indian organization; and

(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students.

(c) Accountability

To ensure the quality and effectiveness of the networked system of comprehensive regional assistance centers supported under this part, the Secretary shall—

(1) develop, in consultation with the Assistant Secretary for Elementary and Secondary Education, the Director of Bilingual Education and Minority Languages Affairs, and the Assistant Secretary for Educational Research and Improvement, a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under this chapter for all children, particularly children at risk of educational failure;

(2) conduct surveys every two years of populations to be served under this chapter to determine if such populations are satisfied with the access to and quality of such services;

(3) collect, as part of the Department's reviews of programs under this chapter, information about the availability and quality of services provided by the centers, and share that information with the centers; and

(4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include—

(A) termination of an award under this part (if the Secretary concludes that performance has been unsatisfactory) and the selection of a new center; and

(B) whatever interim arrangements the Secretary determines are necessary to ensure the satisfactory delivery of services under this part to an affected region.

(d) Duration

Grants, contracts or cooperative agreements under this section shall be awarded for a period of 5 years.

(Pub. L. 89–10, title XIII, § 13101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3877.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8622 of this title.

§ 8622. Requirements of comprehensive regional assistance centers

(a) In general

Each comprehensive regional assistance center established under section 8621(a) of this title shall—

(1) maintain appropriate staff expertise and provide support, training, and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools, and other grant recipients under this chapter, in—

(A) improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under subchapter I of this chapter;

(B) implementing effective schoolwide programs under section 6314 of this title;

(C) meeting the needs of children served under this chapter, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

(D) implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel and other staff;

(E) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

(F) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

(G) implementing educational applications of technology;

(H) coordinating services and programs to meet the needs of students so that students

can fully participate in the educational program of the school;

(I) expanding the involvement and participation of parents in the education of their children;

(J) reforming schools, school systems, and the governance and management of schools;

(K) evaluating programs; and

(L) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas;

(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs under this chapter with each other, as well as with other Federal, State, and local programs and reforms;

(3) provide technical assistance using the highest quality and most cost-effective strategies possible;

(4) coordinate services, work cooperatively, and regularly share information with, the regional educational laboratories, the Eisenhower regional consortia under part C of this subchapter, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities which are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of such services;

(5) work collaboratively with the Department's regional offices;

(6) consult with representatives of State educational agencies, local educational agencies, and populations served under this chapter;

(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 8651 of this title, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

(8) provide professional development services to State educational agencies, local educational agencies, and the National Diffusion Network State Facilitators to increase the capacity of such entities to provide high-quality technical assistance in support of programs under this chapter.

(b) Priority

Each comprehensive regional assistance center assisted under this part shall give priority to servicing—

(1) schoolwide programs under section 6314 of this title; and

(2) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

(Pub. L. 89–10, title XIII, § 13102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3878.)

REFERENCES IN TEXT

The National Literacy Act of 1991, referred to in subsec. (a)(4), was Pub. L. 102–73, July 25, 1991, 105 Stat. 333, as amended, which was repealed by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8623 of this title.

§ 8623. Maintenance of service and application requirements

(a) Maintenance of service

The Secretary shall ensure that the comprehensive regional assistance centers funded under this part provide technical assistance services that address the needs of educationally disadvantaged students, including students in urban and rural areas, and bilingual, migrant, immigrant, and Indian students, that are at least comparable to the level of such technical assistance services provided under programs administered by the Secretary on the day preceding October 20, 1994.

(b) Application requirements

Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section 8622 of this title;

(2) demonstrate how such centers will work with the National Diffusion Network under section 8651 of this title to conduct outreach to local educational agencies receiving priority under section 8701 of this title;

(3) demonstrate support from States, local educational agencies and tribes in the area to be served;

(4) demonstrate how such centers will ensure a fair distribution of services to urban and rural areas; and

(5) provide such other information as the Secretary may require.

(Pub. L. 89–10, title XIII, § 13103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3879.)

§ 8624. Transition

(a) In general

The Secretary shall use funds appropriated to carry out this part for fiscal years 1995 and 1996 in order to ensure an orderly transition and phase in of the comprehensive regional assistance centers assisted under this part.

(b) Extension of previous centers

(1) In general

The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section 8625 of this title to extend or continue contracts and grants for existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding October 20, 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

(2) Staff expertise

In planning for the competition for the new comprehensive regional assistance centers under this part, the Secretary may draw on the expertise of staff from existing categorical assistance centers assisted under this Act prior to October 20, 1994.

(Pub. L. 89–10, title XIII, § 13104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880.)

REFERENCES IN TEXT

This Act, as such Act was in effect on the day preceding October 20, 1994, and this Act prior to October 20, 1994, referred to in subsec. (b), are Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 8625. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XIII, § 13105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8624 of this title.

PART B—NATIONAL DIFFUSION NETWORK

§ 8651. Program authorized

(a) Authority

(1) In general

In order to implement the purposes of this subchapter, the Secretary is authorized to establish the National Diffusion Network (hereafter referred to in this chapter as ''NDN'') to carry out a State-based outreach, consultation, training, and dissemination program.

(2) Program requirements

In carrying out the program under this part, the Secretary shall award grants and contracts to National Diffusion Network State Facilitators in each State and outlying area, and to the Bureau of Indian Affairs, in order to assist State and local educational agencies, schools, and other appropriate educational entities—

(A) to identify and secure appropriate, high-quality technical assistance from the comprehensive regional assistance centers under part A of this subchapter and other sources; and

(B) to identify and implement exemplary or promising educational programs and practices.

(b) Eligible entities

The Secretary shall award grants and contracts under this section to public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination.

(c) Administration

The program under this part shall be administered through the Office of Reform Assistance and Dissemination established under section 6041(b) of this title.

(d) Coordination

The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional assistance centers established under part A of this subchapter.

(e) State facilitator activities

The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this chapter, in—

(1) defining such entities' technical assistance needs and aligning such needs with school reform under subchapter I of this chapter, professional development, and technology plans;

(2) securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower regional consortia, State Literacy Resource Centers authorized under the National Literacy Act of 1991 and other technical assistance providers, including local providers of professional development services;

(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia under part C of this subchapter and the regional technical assistance and professional development consortia under subpart 3[1] of subchapter III of this chapter; and

(4) utilizing technology, including regional and national electronic networks, to increase such entities' access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

(f) Additional duties

In addition, National Diffusion Network State Facilitators shall—

(1) disseminate information about school reform and effective and promising practices, and help local educational agencies and schools adapt such reform and practices to such agencies' needs;

(2) identify educational programs and practices for possible dissemination throughout the State and Nation;

(3) promote and facilitate teacher networks throughout the State;

(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section 8701 of this title; and

(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this subchapter.

[1] So in original. Probably should be ''subpart 3 of part A''.

(g) National Diffusion Network effective programs and promising practices system

(1) In general

The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies and shall be coordinated, aligned with, and administered by, the Office of Reform Assistance and Dissemination established under section 6041(b) of this title.

(2) Priority

The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

(3) Priority of services

The National Diffusion Network State Facilitators shall give priority in providing the services described in this section to—

(A) schoolwide program under section 6314 of this title; and

(B) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

(Pub. L. 89–10, title XIII, § 13201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880.)

REFERENCES IN TEXT

The National Literacy Act of 1991, referred to in subsec. (e)(2), was Pub. L. 102–73, July 25, 1991, 105 Stat. 333, as amended, which was repealed by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8622, 8623 of this title.

§ 8652. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89–10, title XIII, § 13202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882.)

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6622, 6861, 8622, 8651 of this title.

§ 8671. Program established

(a) In general

(1) Grants authorized

The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

(A) disseminating exemplary mathematics and science education instructional materials; and

(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

(2) Number

The Secretary, in accordance with the provisions of this section, shall award at least one grant or contract to an eligible entity in each region.

(3) Special rule

In any fiscal year, if the amount made available pursuant to section 8678 of this title is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

(4) Designation

Each regional consortium assisted under this section shall be known as an ''Eisenhower regional consortium''.

(b) Grant term and review

Grants or contracts under this part shall be awarded for a period of not more than five years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this part shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out this part.

(c) Amount

In awarding grants or contracts under this part, the Secretary shall ensure that there is a relatively equal distribution of the funds made available among the regions, except that the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

(Pub. L. 89–10, title XIII, § 13301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882.)

CLUBS FOR BOYS AND GIRLS INTERESTED IN SCIENCE; AUTHORIZATION OF APPROPRIATIONS; PURPOSES; PERSONNEL AND FACILITIES

Pub. L. 85–875, Sept. 2, 1958, 72 Stat. 1700, provided: ''That in order to strengthen future scientific accomplishment in our Nation by assisting in the development of a body of boys and girls with a special interest in science, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, such sums, not in excess of $50,000, as may be necessary to enable the Commissioner of Education [now Secretary of Education] to encourage, foster, and assist in the establishment in localities throughout the Nation of clubs which are composed of boys and girls who have an especial interest in science.

''SEC. 2. (a) The Commissioner of Education [now Secretary of Education] shall carry out his duties under

the first section with a view to the ultimate chartering by the Congress of a Corporation, similar to the Future Farmers of America, which will seek to—

''(1) develop an interest in science on the part of the young people of America,

''(2) provide an opportunity for the exchange of scientific information and ideas among members of the clubs,

''(3) encourage the promotion of science fairs at which members of the clubs may display their scientific works and projects, and

''(4) develop an awareness of the satisfactions to be derived through a career devoted to science.

''(b) The Commissioner of Education [now Secretary of Education] may utilize any of the personnel and facilities of the Office of Education [now Department of Education] in carrying out this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8672, 8677 of this title.

§ 8672. Use of funds

Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section 8674 of this title, to—

(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 6622(b) of this title and federally funded technical assistance providers to more effectively accomplish the activities described in this section;

(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section 8671(a)(1) of this title;

(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section 8671(a)(1) of this title in the classroom;

(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

(7) develop and disseminate early childhood education mathematics and science instructional materials;

(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

(9) collect data on activities assisted under this part in order to evaluate the effectiveness of the activities of the regional consortia;

(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

(Pub. L. 89–10, title XIII, § 13302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3883.)

§ 8673. Application and review

(a) In general

Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

(6) demonstrate that the eligible entity will consider the resources of telecommunications partnerships assisted under the Star Schools Program Assistance Act (as such Act was in effect on the day preceding October 20, 1994) in carrying out the provisions of this part, where appropriate; and

(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17.

(b) Approval of application

(1) In general

The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) of this section in accordance with the criteria and procedures established under paragraph (2).

(2) Procedures and criteria

The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are competitively awarded on the basis of merit determined under a peer review process.

(3) National panel

(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this part. The Secretary shall appoint the members of such panel or panels.

(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

(Pub. L. 89–10, title XIII, § 13303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3884.)

REFERENCES IN TEXT

The Star Schools Program Assistance Act (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a)(6), is title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, as amended, which was classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of this title, prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8675 of this title.

§ 8674. Regional boards

(a) In general

Each eligible entity receiving a grant or contract under this part shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

(b) Prohibition on use of Federal funds

No Federal funds may be used for the establishment or operation of a regional board required by subsection (a) of this section, except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

(Pub. L. 89–10, title XIII, § 13304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8672 of this title.

§ 8675. Payments; Federal share; non-Federal share

(a) Payments

The Secretary shall pay to each eligible entity having an application approved under section 8673 of this title the Federal share of the cost of the activities described in the application.

(b) Federal share

For the purpose of subsection (a) of this section, the Federal share shall be 80 percent.

(c) Non-Federal share

The non-Federal share of the cost of activities described in the application submitted under section 8673 of this title may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

(Pub. L. 89–10, title XIII, § 13305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

§ 8676. Evaluation

(a) Evaluation required

The Secretary, through the Office of Educational Research and Improvement and in accordance with section 8941 of this title, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

(b) Assessment

The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

(c) Report

At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

(Pub. L. 89–10, title XIII, § 13306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885.)

§ 8677. Definitions

For purposes of this part:

(1) The term ''eligible entity'' means—

(A) a private nonprofit organization of demonstrated effectiveness;

(B) an institution of higher education;

(C) an elementary or secondary school;

(D) a State or local educational agency;

(E) a regional educational laboratory in consortium with the research and development center established under section 6031(c)(1)(B)(i) of this title; or

(F) any combination of the entities described in subparagraphs (A) through (E),

with demonstrated expertise in mathematics and science education.

(2) The terms ''mathematics'' and ''science'' include the technology education associated with mathematics and science, respectively.

(3) The term ''region'' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding March 31, 1994).

(4) The term ''regional consortium'' means each regional mathematics and science education consortium established pursuant to section 8671 of this title.

(5) The term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher

education, or, if there is no such officer or agency, an officer or agency designated for the purpose of carrying out this part by the Governor or by State law.

(Pub. L. 89–10, title XIII, § 13307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

REFERENCES IN TEXT

Section 405 of the General Education Provisions Act (as such section was in existence on the day preceding March 31, 1994), referred to in par. (3), is section 405 of Pub. L. 90–247 which was classified to section 1221e of this title prior to repeal by Pub. L. 103–227, title IX, § 911(a), Mar. 31, 1994, 108 Stat. 213.

§ 8678. Authorization of appropriations

There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

(Pub. L. 89–10, title XIII, § 13308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8671 of this title.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

§ 8701. Technology-based technical assistance

The Secretary is authorized to provide a technology-based technical assistance service that will—

(1) support the administration and implementation of programs under this chapter by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this chapter.

(Pub. L. 89–10, title XIII, § 13401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8623, 8651 of this title.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

§ 8801. Definitions

Except as otherwise provided, for the purposes of this chapter, the following terms have the following meanings:

(1) Average daily attendance

(A) Except as provided otherwise by State law or this paragraph, the term ''average daily attendance'' means—

(i) the aggregate number of days of attendance of all students during a school year; divided by

(ii) the number of days school is in session during such school year.

(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this chapter—

(i) consider the child to be in attendance at a school of the agency making such payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 1401(a)(1)[1] of this title, the Secretary shall, for the purposes of this chapter, consider such child to be in attendance at a school of the agency making such payment.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third 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 local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of such agencies; divided by

(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(3) Child

The term ''child'' means any person within the age limits for which the State provides free public education.

(4) Community-based organization

The term ''community-based organization'' means a public or private nonprofit organization of demonstrated effectiveness that—

(A) is representative of a community or significant segments of a community; and

(B) provides educational or related services to individuals in the community.

(5) Consolidated local application

The term ''consolidated local application'' means an application submitted by a local educational agency pursuant to section 8852 of this title.

[1] See References in Text note below.

(6) Consolidated local plan

The term ''consolidated local plan'' means a plan submitted by a local educational agency pursuant to section 8852 of this title.

(7) Consolidated State application

The term ''consolidated State application'' means an application submitted by a State educational agency pursuant to section 8852 of this title.

(8) Consolidated State plan

The term ''consolidated State plan'' means a plan submitted by a State educational agency pursuant to section 8852 of this title.

(9) County

The term ''county'' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

(10) Covered program

The term ''covered program'' means each of the programs authorized by—

(A) part A of subchapter I of this chapter;

(B) part C of subchapter I of this chapter;

(C) subchapter II of this chapter (other than section 6623 of this title and part D);

(D) subpart 2 of part A of subchapter III of this chapter;

(E) part A of subchapter IV of this chapter (other than section 7114 of this title); and

(F) subchapter VI of this chapter.

(11) Current expenditures

The term ''current expenditures'' means expenditures for free public education—

(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subchapter I of this chapter and subchapter VI of this chapter.

(12) Department

The term ''Department'' means the Department of Education.

(13) Educational service agency

The term ''educational service agency'' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

(14) Elementary school

The term ''elementary school'' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(15) Family literacy services

The term ''family literacy services'' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(16) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

(17) Gifted and talented

The term ''gifted and talented'', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

(18) Institution of higher education

The term ''institution of higher education'' has the meaning given that term in section 1001 of this title.

(19) Local educational agency

(A) The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(20) Mentoring

The term ''mentoring'' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

(21) Other staff

The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(22) Outlying area

The term ''outlying area'' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 6331 of this title and any other discretionary grant program under this chapter, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(23) Parent

The term ''parent'' includes a legal guardian or other person standing in loco parentis.

(24) Public telecommunication entity

The term ''public telecommunication entity'' has the same meaning given to such term in section 397(12) of title 47.

(25) Pupil services personnel; pupil services

(A) The term ''pupil services personnel'' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 1401(a)(17)[1] of this title) as part of a comprehensive program to meet student needs.

(B) The term ''pupil services'' means the services provided by pupil services personnel.

(26) Secondary school

The term ''secondary school'' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

(27) Secretary

The term ''Secretary'' means the Secretary of Education.

(28) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(29) State educational agency

The term ''State educational agency'' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

(30) Technology

The term ''technology'' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD–ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

(Pub. L. 89–10, title XIV, § 14101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3887; amended Pub. L. 105–244, title I, § 102(a)(6)(K), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(5)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407; Pub. L. 105–278, § 3(j), Oct. 22, 1998, 112 Stat. 2688; Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–334.)

REFERENCES IN TEXT

Section 1401 of this title, referred to in pars. (1)(D) and (25)(A), was in the original a reference to section 602 of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability'' and ''related services''.

AMENDMENTS

2000—Pars. (15) to (30). Pub. L. 106–554 added par. (15) and redesignated former pars. (15) to (29) as (16) to (30), respectively.

1998—Par. (10)(C). Pub. L. 105–277 substituted ''part D'' for ''part C''.

Par. (14). Pub. L. 105–278, § 3(j)(1), inserted '', including a public elementary charter school,'' after ''residential school''.

Par. (17). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

Par. (25). Pub. L. 105–278, § 3(j)(2), inserted '', including a public secondary charter school,'' after ''residential school''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1003, 1687, 2302, 4020, 4514, 5502, 5802, 5891a, 8821, 9001, 9202 of this title; title 2 sections 117b–2, 117e, 812; title 7 section 3152; title 10 sections 503, 2194; title 15 sections 2642, 2662; title 25 section 2026; title 26 section 1397E; title 29 sections 762, 794, 2618, 2801; title 42 sections 300j–21, 2000d–4a, 3030g–12, 3030*o*, 6107, 7382b, 9877, 9923, 12511; title 47 section 254.

§ 8802. Applicability of this subchapter

Parts B, C, D, E, and F of this subchapter do not apply to subchapter VIII of this chapter.

(Pub. L. 89–10, title XIV, § 14102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

§ 8803. Applicability to Bureau of Indian Affairs operated schools

For purposes of any competitive program under this chapter, a consortia of schools oper-

ated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

(Pub. L. 89–10, title XIV, § 14103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8821. Consolidation of State administrative funds for elementary and secondary education programs

(a) Consolidation of administrative funds

(1) In general

A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

(2) Applicability

This section applies to programs under subchapter I of this chapter, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 8801(10) of this title, and administrative funds under section 308(c)[1] of the Goals 2000: Educate America Act.

(b) Use of funds

(1) In general

A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a) of this section.

(2) Additional uses

A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a) of this section, such as—

(A) the coordination of such programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this chapter;

(C) the administration of this subchapter;

(D) the dissemination of information regarding model programs and practices; and

(E) technical assistance under programs specified in subsection (a)(2) of this section.

(c) Records

A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a) of this section.

(d) Review

To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

(e) Unused administrative funds

If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a) of this section.

(f) Consolidation of funds for standards and assessment development

In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under subchapter I of this chapter and title III[1] of the Goals 2000: Educate America Act.

(Pub. L. 89–10, title XIV, § 14201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3890.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (f), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. Section 308 of the Act was classified to section 5888 of this title and was repealed by Pub. L. 106–113. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8823 of this title.

§ 8822. Single local educational agency States

A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this chapter, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

(Pub. L. 89–10, title XIV, § 14202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3891.)

§ 8823. Consolidation of funds for local administration

(a) General authority

In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available

[1] See References in Text note below.

to the local educational agency under such covered programs.

(b) State procedures

Within one year from October 20, 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) of this section and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

(c) Conditions

A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) Uses of administrative funds

A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 8821(b)(2) of this title.

(e) Records

A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

(Pub. L. 89–10, title XIV, § 14203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892.)

§ 8824. Administrative funds studies

(a) Federal funds study

(1) In general

The Secretary shall conduct a study of the use of funds under this chapter for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

(2) State data

Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under subchapter I of this chapter shall submit to the Secretary a report on the use of subchapter I funds for the State administration of activities assisted under subchapter I of this chapter. Such report shall include the proportion of State administrative funds provided under section 6513 of this title that are expended for—

(A) basic program operation and compliance monitoring;

(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

(C) technical assistance and other direct support to local educational agencies and schools.

(3) Federal funds report

The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

(4) Results

Based on the results of the study described in subsection (a)(1) of this section, which may include collection and analysis of the data under paragraph (2) and section 9009(b) of this title, the Secretary shall—

(A) develop a definition of what types of activities constitute the administration of programs under this chapter by State and local educational agencies; and

(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

(b) General administrative funds study and report

Upon the date of completion of the pilot model data system described in section 9009(b) of this title, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

(2) the potential usefulness of such data system to reduce such administrative expenses;

(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

(Pub. L. 89–10, title XIV, § 14204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3892.)

§ 8825. Consolidated set-aside for Department of the Interior funds

(a) General authority

(1) Transfer

The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of subchapter IX of this chapter, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11431 et seq.], the amounts allotted to the Department of the Interior under those programs.

(2) Agreement

(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

(B) The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

(ii) be developed in consultation with Indian tribes.

(b) Administration

The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

(Pub. L. 89–10, title XIV, § 14205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3893; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

§ 8826. Availability of unneeded program funds

(a) Unneeded program funds

With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of subchapter I of this chapter) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

(b) Coordination of services

A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this chapter for the establishment and implementation of a coordinated services project in accordance with the requirements of subchapter XI of this chapter.

(Pub. L. 89–10, title XIV, § 14206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8403, 8404, 8405, 8406 of this title.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8851. Purpose

It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this chapter and enhanced integration of programs under this chapter with educational activities carried out with State and local funds.

(Pub. L. 89–10, title XIV, § 14301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894.)

§ 8852. Optional consolidated State plans or applications

(a) General authority

(1) Simplification

In order to simplify application requirements and reduce the burden for State educational agencies under this chapter, the Secretary, in accordance with subsection (b) of this section, shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

(A) each of the covered programs in which the State participates; and

(B) the additional programs described in paragraph (2).

(2) Additional programs

A State educational agency may also include in its consolidated State plan or consolidated State application—

(A) the Even Start program under part B of subchapter I of this chapter;

(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of subchapter I of this chapter;

(C) programs under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(D) programs under the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.]; and

(E) such other programs as the Secretary may designate.

(3) Consolidated applications and plans

A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

(b) Collaboration

(1) In general

In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local edu-

cational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

(2) Contents

Through the collaborative process described in subsection (b)(1) of this section, the Secretary shall establish, for each program under the chapter to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

(3) Necessary materials

The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

(Pub. L. 89–10, title XIV, § 14302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3894; amended Pub. L. 105–332, § 3(c)(3), Oct. 31, 1998, 112 Stat. 3125.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (a)(2)(C), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (a)(2)(D), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(2)(C) to (F). Pub. L. 105–332 redesignated subpars. (D) to (F) as (C) to (E), respectively, and struck out former subpar. (C) which read as follows: ''programs under part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6367, 6396, 8801, 8853, 8855 of this title.

§ 8853. General applicability of State educational agency assurances

(a) Assurances

A State educational agency that submits a consolidated State plan or consolidated State application under this chapter, whether separately or under section 8852 of this title, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

(6) the State will—

(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

(b) GEPA provision

Section 1232d of this title shall not apply to programs under this chapter.

(Pub. L. 89–10, title XIV, § 14303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3895.)

§ 8854. Additional coordination

(a) Additional coordination

In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this chapter with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

(b) Report

The Secretary shall report to the relevant committees 6 months after October 20, 1994.

(Pub. L. 89–10, title XIV, § 14304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6312, 8856 of this title.

§ 8855. Consolidated local plans or applications

(a) General authority

A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

(b) Required consolidated plans or applications

A State educational agency that has submitted and had approved a consolidated State plan or application under section 8852 of this title may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

(c) Collaboration

A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

(d) Necessary materials

The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

(Pub. L. 89–10, title XIV, § 14305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3896.)

§ 8856. Other general assurances

(a) Assurances

Any applicant other than a State educational agency that submits a plan or application under this chapter, whether separately or pursuant to section 8854 of this title, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) 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

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

(5) 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;

(6) the applicant will—

(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

(b) GEPA provision

Section 1232e of this title does not apply to programs under this chapter.

(Pub. L. 89–10, title XIV, § 14306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6367, 6396, 6434, 6645, 6648, 7112, 7115, 7206, 7426, 7431 of this title.

§ 8857. Relationship of State and local plans to plans under Goals 2000: Educate America Act

(a) State plans

(1) In general

Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III[1] of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.]:

(A) Part A of subchapter I of this chapter (helping disadvantaged children meet high standards).

(B) Part C of subchapter I of this chapter (education of migratory children).

(C) Part D of subchapter I of this chapter (education of neglected, delinquent, and at-risk youth).

(D) Subchapter II of this chapter (professional development).

[1] See References in Text note below.

(E) Subchapter IV of this chapter (safe and drug-free schools).

(F) Subchapter VI of this chapter (innovative education program strategies).

(G) Subpart 4 of part A of subchapter IX of this chapter (Indian education).

(2) Special rule

Notwithstanding any other provision of this chapter, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III[1] of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

(3) Amendment

Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III[1] of the Goals 2000: Educate America Act.

(b) Local plans

(1) In general

Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III[1] of the Goals 2000: Educate America Act [20 U.S.C. 5881 et seq.]:

(A) Part A of subchapter I of this chapter (helping disadvantaged children meet high standards).

(B) Subchapter II of this chapter (professional development).

(C) Subchapter IV of this chapter (safe and drug-free schools).

(D) Subpart 4 of part A of subchapter IX of this chapter (Indian education).

(E) Subpart 1 of part A of subchapter VII of this chapter (bilingual education).

(F) Subchapter VI of this chapter (innovative education program strategies).

(G) Part C of subchapter VII of this chapter (emergency immigrant education).

(2) Plan of operation

Each plan of operation included in an application submitted by an eligible entity under part B of subchapter I of this chapter (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III[1] of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 6311 and 6312 of this title.

(3) Special rule

Notwithstanding any other provision of this chapter, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III[1] of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

(4) Submission

Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III[1] of the Goals 2000: Educate America Act.

(Pub. L. 89–10, title XIV, § 14307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3898; amended Pub. L. 105–332, § 3(c)(4), Oct. 31, 1998, 112 Stat. 3126.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in section catchline and text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended. Title III of the Act was classified generally to subchapter III (§ 5881 et seq.) of chapter 68 of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (a)(1), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–332, which directed substitution of ''Carl D. Perkins Vocational and Technical Education Act of 1998'' for ''Carl D. Perkins Vocational and Applied Technology Technical Education Act'', was executed by making the substitution for ''Carl D. Perkins Vocational and Applied Technology Education Act'' to reflect the probable intent of Congress.

PART D—WAIVERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8881. Waivers of statutory and regulatory requirements

(a) In general

Except as provided in subsection (c) of this section, the Secretary may waive any statutory or regulatory requirement of this chapter for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

(1) receives funds under a program authorized by this chapter; and

(2) requests a waiver under subsection (b) of this section.

(b) Request for waiver

(1) In general

A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

(A) identifies the Federal programs affected by such requested waiver;

(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

(i) increase the quality of instruction for students; or

(ii) improve the academic performance of students;

(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

(2) Additional information

Such requests—

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted—

(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

(3) General requirements

(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(ii) submit the comments to the Secretary; and

(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

(B) In the case of a waiver request submitted by a local educational agency that receives funds under this chapter—

(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

(c) Restrictions

The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this chapter;

(2) maintenance of effort;

(3) comparability of services;

(4) use of Federal funds to supplement, not supplant, non-Federal funds;

(5) equitable participation of private school students and teachers;

(6) parental participation and involvement;

(7) applicable civil rights requirements;

(8) the requirement for a charter school under part C of subchapter X of this chapter; or

(9) the prohibitions regarding—

(A) State aid in section 8892 of this title; or

(B) use of funds for religious worship or instruction in section 8897 of this title.

(d) Duration and extension of waiver

(1) In general

Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

(2) Extension

The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

(B) such extension is in the public interest.

(e) Reports

(1) Local waiver

A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

(A) describes the uses of such waiver by such agency or by schools;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

(2) State waiver

A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

(3) Indian tribe waiver

An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

(A) describes the uses of such waiver by schools operated by such tribe; and

(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

(4) Report to Congress

Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) describing whether such waivers—

(i) increased the quality of instruction to students; or

(ii) improved the academic performance of students.

(f) Termination of waivers

The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

(g) Publication

A notice of the Secretary's decision to grant each waiver under subsection (a) of this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

(Pub. L. 89–10, title XIV, § 14401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3899.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8941 of this title.

PART E—UNIFORM PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8891. Maintenance of effort

(a) In general

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(b) Reduction in case of failure to meet

(1) In general

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances such as a natural disaster; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title XIV, § 14501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3901.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6322, 6434 of this title.

§ 8892. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title XIV, § 14502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8881 of this title.

§ 8893. Participation by private school children and teachers

(a) Private school participation

(1) In general

Except as otherwise provided in this chapter, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

(2) Secular, neutral, and nonideological services or benefits

Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) Special rule

Educational services and other benefits provided under this section for such private

school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

(4) Expenditures

Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) Provision of services

Such agency or consortium described in subsection (a)(1) of this section may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Applicability

(1) In general

This section applies to programs under—

(A) part C of subchapter I of this chapter (migrant education);

(B) subchapter II of this chapter (other than section 6623 of this title and part D of such subchapter);

(C) subchapter VII of this chapter;

(D) subchapter III of this chapter (other than part B of such subchapter) (Star Schools); and

(E) part A of subchapter IV of this chapter (other than section 7114 of this title).

(2) "Eligible children" defined

For the purposes of this section, the term ''eligible children'' means children eligible for services under a program described in paragraph (1).

(c) Consultation

(1) In general

To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this chapter, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how and where the services will be provided; and

(D) how the services will be assessed.

(2) Timing

Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter.

(3) Discussion required

Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) Public control of funds

(1) In general

The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) Provision of services

(A) The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

(Pub. L. 89–10, title XIV, § 14503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3902; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(6)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407.)

AMENDMENTS

1998—Subsec. (b)(1)(B). Pub. L. 105–277 substituted ''part D'' for ''part C''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8894, 8895, 8896 of this title.

§ 8894. Standards for by-pass

If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 8893 of this title, the Secretary shall—

(1) waive the requirements of that section for such agency or consortium; and

(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 8893, 8895, and 8896 of this title.

(Pub. L. 89–10, title XIV, § 14504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3903.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8896 of this title.

§ 8895. Complaint process for participation of private school children

(a) Procedures for complaints

The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 8893 of this title by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) Appeals to Secretary

Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

(Pub. L. 89–10, title XIV, § 14505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6321, 8894 of this title.

§ 8896. By-pass determination process

(a) Review

(1) In general

(A) The Secretary shall not take any final action under section 8894 of this title until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) Petition for review

(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28.

(3) Findings of fact

(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction

(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 8893 of this title or any other provision of this chapter.

(c) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this chapter.

(d) Prior determination

Any by-pass determination by the Secretary under this Act as in effect on the day preceding October 20, 1994, shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

(Pub. L. 89–10, title XIV, § 14506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3904.)

REFERENCES IN TEXT

This Act, as in effect on the day preceding October 20, 1994, referred to in subsec. (d), is Pub. L. 89–10, as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, as amended, known as the Elementary and Secondary Education Act of 1965, which was classified generally to chapter 47 (§ 2701 et seq.) of this title prior to the general amendment of that Act by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6321, 8894 of this title.

§ 8897. Prohibition against funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction.

(Pub. L. 89–10, title XIV, § 14507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8881 of this title.

§ 8898. Applicability to home schools

Nothing in this chapter shall be construed to affect home schools.

(Pub. L. 89–10, title XIV, § 14508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

§ 8899. General provision regarding nonrecipient nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this chapter.

(Pub. L. 89–10, title XIV, § 14509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3905.)

§ 8900. School prayer

Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this chapter until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

(Pub. L. 89–10, title XIV, § 14510, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

§ 8901. General prohibitions

(a) Prohibition

None of the funds authorized under this chapter shall be used—

(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of condom distribution in schools.

(b) Local control

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(Pub. L. 89–10, title XIV, § 14511, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(2), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 8902. Prohibition on Federal mandates, direction, and control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(Pub. L. 89–10, title XIV, § 14512, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

§ 8903. Report

The Secretary shall report to the Congress not later than 180 days after October 20, 1994, regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this chapter comply with changes to this chapter made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

(Pub. L. 89–10, title XIV, § 14513, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3906.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in text, is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

§ 8904. Required participation prohibited

Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this chapter.

(Pub. L. 89–10, title XIV, § 14514, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

PART F—GUN POSSESSION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 8802 of this title.

§ 8921. Gun-free requirements

(a) Short title

This section may be cited as the ''Gun-Free Schools Act of 1994''.

(b) Requirements

(1) In general

Except as provided in paragraph (3), each State receiving Federal funds under this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

(2) Construction

Nothing in this subchapter shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

(3) Special rule

(A) Any State that has a law in effect prior to October 20, 1994, which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

(B) The period of time shall be the period beginning on October 20, 1994, and ending one year after such date.

(4) "Weapon" defined

For the purpose of this section, the term ''weapon'' means a firearm as such term is defined in section 921 of title 18.

(c) Special rule

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(d) Report to State

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including—

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of weapons concerned.

(e) Reporting

Each State shall report the information described in subsection (c) of this section to the Secretary on an annual basis.

(f) Report to Congress

Two years after October 20, 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this subchapter.

(Pub. L. 89–10, title XIV, § 14601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

APPLICABILITY OF INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Section 314(b) of Pub. L. 103–382 provided that: ''Nothing in the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] shall supersede the provisions of section 14601 of the Elementary and Secondary Education Act [of 1965] [20 U.S.C. 8921] if a child's behavior is unrelated to such child's disability, except that this section [amending section 1415 of this title and enacting provisions set out as a note under section 1415 of this title] shall be interpreted in a manner that is consistent with the Department's final guidance concerning State and local responsibilities under the Gun-Free Schools Act of 1994 [20 U.S.C. 8921].''

§ 8922. Policy regarding criminal justice system referral

(a) In general

No funds shall be made available under this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(b) Definitions

For the purpose of this section, the terms ''firearm'' and ''school'' have the same meaning given to such terms by section 921(a) of title 18.

(Pub. L. 89–10, title XIV, § 14602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908.)

§ 8923. Data and policy dissemination under IDEA

The Secretary shall—

(1) widely disseminate the policy of the Department in effect on October 20, 1994, with respect to disciplining children with disabilities;

(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1)[1] of the Individuals With[2] Dis-

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

abilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

(Pub. L. 89–10, title XIV, § 14603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908.)

REFERENCES IN TEXT

Section 602 of the Individuals with Disabilities Education Act, referred to in par. (2), was classified to section 1401 of this title and was omitted in the general amendment of subchapter I of chapter 33 of this title, by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of the Act which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability''.

PART G—EVALUATIONS

§ 8941. Evaluations

(a) Evaluations

(1) In general

Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this chapter—

(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this chapter, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b) of this section;

(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this chapter and related Federal preschool, elementary and secondary programs under other Federal law; and

(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

(2) Special rule

(A) Paragraph (1) shall not apply to any program under subchapter I of this chapter.

(B) If funds are made available under any program assisted under this chapter (other than a program under subchapter I of this chapter) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) of this section to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b) of this section.

(b) National evaluations

(1) In general

The Secretary shall use the funds made available under subsection (a) of this section to carry out—

(A) independent studies of categorical and demonstration programs under this chapter and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

(ii) the short- and long-term effects of program participation on program participants, as appropriate;

(iii) the cost and efficiency of such programs;

(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

(vi) promising means of identifying and disseminating effective management and educational practices;

(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

(B) in collaboration with the national assessment conducted pursuant to section 6511 of this title, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and be coordinated with evaluations of such Acts;

(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

(I) the readiness of children for schooling;

(II) the improvement in educational attainment of students in elementary and secondary education; and

(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

(I) on school reform efforts undertaken by States;

(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, and the National Education Goals Panel coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

(C) a study of the waivers granted under section 8881 of this title, which study shall include—

(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this chapter, the School-to-Work Opportunities Act of 1994 [20 U.S.C. 6101 et seq.], and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], on improvement in educational achievement of participating students and on school and local educational agency administrative responsibilities, structure, and resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

(D) a study of the waivers provided under section 6314 of this title to support schoolwide programs which shall include—

(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

(2) Independent panel

The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

(3) Report

The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

(c) Recipient evaluation and quality assurance improvement

The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this chapter to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

(Pub. L. 89–10, title XIV, § 14701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in subsec. (b)(1)(B)(i), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (b)(1)(B)(ii), (C)(ii), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The School-to-Work Opportunities Act of 1994, referred to in subsec. (b)(1)(B)(ii), (C)(ii), is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(B)(v). Pub. L. 104–134 substituted "and the National Education Goals Panel" for "the National Education Goals Panel, and the National Edu-

cation Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments)''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1226c, 6434, 6435, 6621, 6622, 6701, 6847, 7131, 7237, 7263, 7548, 8002, 8036, 8332, 8676 of this title.

PART H—SENSE OF CONGRESS

§ 8961. Sense of Congress to increase total share of Federal spending on education

(a) Findings

The Congress finds that—

(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one percent each year over the next eight years to reach 10 percent of the total Federal budget.

(b) Sense of Congress

It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

(Pub. L. 89–10, title XIV, § 14801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3911.)

§ 8962. Sense of Congress; requirement regarding notice

(a) Purchase of American-made equipment and products

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this chapter, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) Notice to recipients of assistance

In providing financial assistance under this chapter, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) of this section by the Congress.

(Pub. L. 89–10, title XIV, § 14802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3912.)

CHAPTER 71—NATIONAL EDUCATION STATISTICS

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